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C O M M O N W E A L T H

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V I R G I N I A.

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BEGUN AND HELD AT THE CAPITOL, IN THE CITY OF RICHMOND,
ON MONDAY, THE FIRST DAY OF OCTOBER, ONE
THOUSAND SEVEN HUNDRED AND
NINETY-TWO.



R I C H M O N D :

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M, DCC, XCIH.



A C T S O F T H E GENERAL ASSEMBLY.

C H A P T E R I.

An ACT for arranging the Counties of this Commonwealth into Districts to choose Representatives to Congress.

[Passed the 26th of December, 1792.]

SECTION I. **B**E it enacted by the General Assembly, That the counties of this commonwealth shall be divided into nineteen districts, in manner following, to wit:—The counties of Frederick and Berkely shall compose one district; The counties of Augusta, Rockingham, Shenandoah, Rockbridge, and Bath, shall compose another district: The counties of Hampshire, Hardy, Pendleton, Randolph, Harrison, Monongalia, and Ohio, shall compose another district: The counties of Wythe, Greenbrier, Kanawha, Lee, Russell, Montgomery, Grayson, and Washington, shall compose another district: The counties of Franklin, Bedford, Botetourt, Henry, and Patrick, shall compose another district: The counties of Halifax, Pittsylvania, and Campbell, shall compose another district: The counties of Prince-Edward, Charlotte, Buckingham, Cumberland, and Powhatan, shall compose another district: The counties of Brunswick, Mecklenburg, Lunenburg, and Greenville, shall compose another district: The counties of Dinwiddie, Amelia, Nottoway, and Chesterfield, shall compose another district: The counties of Sussex, Southampton, Surry, and Prince-George, shall compose another district: The counties of Norfolk, Princess Anne, Isle of Wight, and Nansemond, shall compose another district: The counties of York, Accomack, Northampton, Elizabeth City, Warwick, Gloucester, and Mathews, shall compose another district: The counties of Henrico, Hanover, New-Kent, Charles City, and James City, shall compose another district: The counties of Albemarle, Amherst, Fluvanna, and Goochland, shall compose another district: The counties of Orange, Spottsylvania, Louisa, and that part of Culpeper established as a county by the name of Madison, shall compose another district: The counties of King & Queen, King William, Essex, Middlesex, and Caroline, shall compose another district: The counties of Loudoun, Fairfax, and Prince William, shall compose another district: The county of Culpeper as now divided, with the counties of Fauquier, and Stafford, shall compose another district: and the counties of Richmond, Westmoreland, King George, Lancaster, and Northumberland, shall compose another district.

Arrangement
of districts for
the election of
Representa-
tives in Con-
gress;

SEC. II. *AND be it further enacted*, That the persons qualified by law to vote for members to the House of Delegates in each county and corporation composing a district, shall assemble at their respective county courthouse houses, on the third Monday in March next, and also on the third Monday in March in every second year thereafter, and then and there vote for some discreet and proper person, being a freeholder and resident within such district, as a member of the House of Representatives for the United States.

Qualification
of electors;
Elections,
when & where
to be held;

SEC. III. **T**HE high sheriff of each county, or in case of his sickness or inability to attend, one of the deputy sheriffs (except in such counties where there shall be no sheriff) shall conduct the said election, at which no determination shall be had by view, but each person qualified to vote, shall fairly and publicly poll, and the name of the voter shall be duly entered under the name of the person voted for, in proper poll books, to be provided by the officer conducting the election, for which purpose he shall appoint so many writers as he shall think fit, who shall respectively take an oath, to be administered by him, or make solemn affirmation, that they will take the poll fairly and impartially. He shall deliver a poll book to each writer, who shall enter in distinct columns under the name of the person voted for, the name of each elector voting for such person. Like proclamation and proceeding shall be had for conducting, continuing, and closing the poll in each county of a district, as is prescribed by law in the election of members to the General Assembly: and proclamation shall also be made at the courthouse door, or place of holding such election of the person having the greatest number of votes on the poll on the closing thereof. Each elector shall be entitled to the same privilege from arrests, and be subject to the like penalty and forfeiture for failing to attend and vote at such election, as is prescribed by law, in the case of election of members to the General Assembly. Such failure to attend to be discovered and proceeded on in like manner, and under the same penalties, as is by law provided against such failures in the election of members to the General Assembly.

By whom;

How to be con-
ducted;

Privilege of e-
lectors;
Penalty for not
voting;

Duties of the
returning offi-
cers.

SEC. IV. IMMEDIATELY after each election in a county, the clerks of the poll having first signed the same, shall deliver the same to the sheriff or other officer who conducted the election, and such sheriff or other officer, together with the respective sheriffs and other officers who conducted the poll of the several counties in the district (but in case of sickness, death or other disability of the officer who shall have conducted the poll, then any other sheriff or officer of the county in which such disability may happen) shall on the eighth day after the election, assemble at the courthouse of the county first named in such district, and then and there compare the polls respectively taken at the elections in their several counties, and having ascertained by faithful addition, and comparison of the numbers on the respective polls, the person having the greatest number of votes upon the whole, giving their own votes in any case of the two foremost on such poll, having an equal number of votes, shall proceed to certify such election, under their hands and seals, in manner and form following, to wit:

" WE, A. B. sheriff of _____ county (or deputy sheriff, as the case may be) C. D. sheriff of _____ county (as the case may be) and so reciting the name of the sheriff or magistrate, and whether principal or deputy of each county in the district, composing one entire district entitled by law to elect a member to the house of representatives of the United States, do hereby certify and make known that at an election held on _____ at the place of holding elections in our respective counties, pursuant to law, the electors qualified to vote for the member to the house of delegates, caused to be chosen one person, to wit, G. H. to represent the said district as a member of the house of representatives for the United States. Given under our hands and seals, this _____ day of _____ one thousand _____ hundred and _____

TWO fair duplicates of such certificate and return shall be made by the said sheriffs and other officers under their hands and seals, in the manner before recited, one of which shall be delivered to the person elected to represent the district, and the other shall be transmitted to the Governor and Council, within twenty days, under the penalty of three hundred dollars upon each sheriff, or other officer, in case of failure or neglect herein; to be recovered by motion in any court of record, by the auditor of public accounts to the use of the commonwealth, on ten days previous notice of such motion.

Poll books to
be recorded.

SEC. V. THE said sheriffs and other officers, shall also under like penalty and recovery, deliver to the clerks of their respective counties, within ten day after such return, the original poll books, to be by such clerk entered of record under the like penalty for failure, as for failing to record the poll books taken at the election of members to the General Assembly—and where a poll shall be taken in any county which shall not become so, until after the election, which shall first be holden in pursuance of this act, the officer conducting such election shall deliver the poll books by him kept, to the clerk of his county, as the same now stands, to be by him also recorded under the like penalty.

Certificates of
elections to be
transmitted to
Congress;

SEC. VI. IT shall be the duty of the executive to inclose to the Congress of the United States, the certificates and returns of elections aforesaid, transmitted to them from the respective districts without delay.

Penalty on she-
riffs for any
neglect of du-
ty;

SEC. VII. ANY sheriff or other officer, refusing to take the poll when he shall be required by a candidate or elector; or taking it in any other manner than is herein before prescribed; or making or signing a false certificate or return of election as herein before directed; or making any erasure or alteration in the poll book; or refusing to suffer any candidate or elector at his own expence to take a copy of the poll book, shall forfeit and pay six hundred dollars; which penalties may be recovered with costs, in actions of debt, by any person who will sue for the same; one half to his own use, and the other half to the use of the commonwealth.

Penalty for
bribing
electors;

SEC. VIII. ANY candidate or other person in his behalf, who shall directly or indirectly, give or agree to give, any elector or pretended elector, money, meat, drink, or other reward, in order to be elected, or for having been elected, shall forfeit and pay fifteen hundred dollars for each offence; to be recovered with costs, by action of debt, to the use of any person who will sue for the same.

Allowance to
the sheriffs for
their trouble &
expenses;

SEC. IX. *AND be it further enacted,* That the sheriffs and other officers, shall receive for their trouble and expence in conducting the said elections, one dollar and sixty-seven cents for the day on which they shall attend to compare the different polls, together with an allowance of ferriages, and four cents a mile for travelling to and from the county, in which they shall meet for that purpose, to be paid in the same manner as the electors, who are to vote for a President of the United States, are paid.

Elections in
three new
counties, how
to be conduct-
ed;

SEC. X. UNTIL the counties of Madison, Grayson, and Lee shall take effect, elections of representatives for congress shall be holden at the places appointed by law for holding the first courts in such counties, and shall be conducted by the first magistrate of the said counties, or in case of sickness or other inability, the next in commission who shall attend the election, under the like regulations as elections are held in the other counties within this commonwealth.

No elector to
vote more than
once for the
same candidate

SEC. XI. *PROVIDED,* That no person entitled to suffrage in pursuance of this act, shall during the same election, vote more than once for the same candidate, under the penalty of one hundred dollars, to be recovered by action of debt, in any court of record, by any person who will sue for the same.

SEC. XI. SO much of every other act, as prescribes the time of electing Representatives to serve in the Congress of the United States, shall be, and the same is hereby repealed.

Repealing
clause.

THIS act shall commence and be in force from and after the passage thereof.

Commence-
ment of the act

C H A P. II.

An ACT for imposing a Public Tax for the Year One Thousand Seven Hundred and Ninety-two.

[Passed the 3d of December, 1792.]

SECTION I. **B**E it enacted by the General Assembly, That the public taxes for the year one thousand seven hundred and ninety-two, shall be as follows, to wit: On lands for every hundred pounds value, agreeably to the equalizing law, five shillings; for every slave above the age of twelve years, (except such as have been or shall be exempted by reason of age or infirmity by the respective county or corporation courts) one shilling and eight-pence; for every stud horse and jack ass, the price at which such horse or ass covers a mare the season; for all other horses, mules, mares and colts, four-pence each; for every ordinary license, forty shillings; for every billiard table, fifteen pounds; for all lots and houses in towns, sixteen shillings and eight-pence on every hundred pounds of the rents thereof, to be ascertained by the rent paid by the tenant, and where such house and lot is in the occupation of the proprietor, the yearly rent or value shall be ascertained by the commissioners of the revenue, or either of them, by a comparison of its value with other houses or lots actually rented: *Provided* that the owner or proprietor of any such house or lot if he thinks himself aggrieved by such valuation, may appeal to the court by whom the commissioner was appointed whose judgment as to the yearly rent or value shall be final. And the said commissioners, or either of them, to ascertain the rent paid on houses or lots actually leased, may call on the tenant or proprietor to declare upon oath, or solemn affirmation, what is the amount of the rent paid for the same: And every person so called upon and refusing to declare, shall forfeit and pay the sum of three hundred dollars, to be recovered by motion, on ten days previous notice to be made by the commissioners of the revenue, or either of them; for every coach, chariot, or post-chaise, six shillings for each wheel; for every other riding carriage with four wheels, four shillings for each wheel; for every other riding carriage with two wheels, two shillings for each wheel: *Provided* that no tax shall be collected on lands, lots, houses, or other property belonging to this commonwealth, or to any county, town, college, houses for divine worship, or seminary of learning.

Taxes on lands
and other pro-
perty:

5/100
on value of land
Coach 2 shillings
Chaise 1 shilling
a wheel 4/

SEC. II. *AND* be it further enacted, That the following taxes on process shall be paid: On each writ or declaration in ejectment instituting any suit in the District Court, or subpoena in the High Court of Chancery, the sum of one dollar; on each appeal to the High Court of Chancery, two dollars; on each writ of error, superseas, and *habeas corpus cum causa*, or *certiorari*, issued from the General Court, a District Court, or High Court of Chancery, one dollar; on each appeal from any County Court, or Court of Hustings, to a District Court, one dollar; the said taxes shall by the respective clerks be taxed in the bill of costs; on each certificate under the seal of any county or corporation court, there shall be paid a tax of one dollar. No writ, subpoena, nor any writ of error, superseas, *certiorari*, or *habeas corpus cum causa*, shall be issued, or declaration in ejectment filed by any clerk, unless the taxes hereby imposed thereon, be first paid down. In all appeals, no transcript of the record shall be delivered to the appellant by the clerk of the court, or forwarded by him to a superior court before the tax imposed thereon be paid, nor shall any certificate under the seal of any county or corporation court be granted, until the tax thereon shall have been first paid to the clerk keeping such seal. There shall be paid forty-two cents for every transfer of a surveyor's certificate for land, to be collected by the register of the land-office before the issuing of the patent; for every attestation, protestation, and all other instruments of publication from a notary public under his seal of office, forty-two cents, to be collected and accounted for by the said notary public, and one dollar for each certificate under the seal of the commonwealth, to be collected by the clerk of the council, before the delivery of such certificate, which last mentioned taxes shall be accounted for and paid in the like manner, and with the like commission for collecting as is directed in the case of other taxes imposed by this act.

On process;
appeals,

certificates un-
der seals of
courts,

transfers of sur-
veys, notaries,
attestations and
certificates un-
der the seal of
the common-
wealth.

THIS act shall commence and be in force, from and after the passing thereof.

Commence-
ment of the act

C H A P. III.

An ACT for appropriating the Public Revenues

[Passed the 26th of December, 1792.]

SECTION I. **B**E it enacted by the General Assembly, That the arrearages of the revenue taxes, which by an act of the last session of assembly, intitled, "An act for appropriating the public revenue," were made to constitute the aggregate fund, shall still continue to constitute the said fund, and remain charged with the payment of all debts heretofore charged thereon, and shall further be charged with all warrants to be issued by the auditor of public accounts in the year one thousand seven hundred and ninety-three, for interest on any debt due

Aggregate
fund;

charges there-
on.

by this commonwealth, and with all sums of money directed to be paid by the present General Assembly, for which no other provision has been made, and all warrants and other facilities which have been heretofore receivable in discharge of the respective taxes, which constitute the aggregate fund, and all warrants, with the payment of which the aggregate fund is charged by this act, may be paid in discharge of the taxes which constitute the said fund; and the sheriffs or collectors of the revenue taxes which constitute the said fund, shall on payment thereof into the public treasury, have credit for the same accordingly; the monies which may be paid into the treasury, in discharge of the taxes which constitute the said fund, and also the money which may be received on sales of tobacco, paid in discharge of the same, or so much thereof as shall be necessary, shall be paid by the treasurer to the holders of warrants on the said fund at certain periods. And to the end that all holders of such warrants, may receive in proportion to their respective claims, the treasurer shall give in the Virginia Gazette, six weeks previous notice of the time, when payment is to be made, in order that such warrants may be previously registered, and the money belonging to the said fund duly apportioned amongst them.

Former appropriations continued.

Charges on the revenue of 1792.

Deficiency in certain funds to be supplied by borrowing from others.

Repealing clause.

Certificates in the sinking fund to be exchanged for others in the hands of certain creditors.

Commencement of the act

SEC. II. *AND be it further enacted*, That all taxes and arrearages of taxes, except those constituting the aggregate fund, shall continue as appropriated by the aforesaid act of the last session of Assembly, intituled, "An act for appropriating the public revenue;" and that all branches of revenue which shall arise to the commonwealth, between the last day of December, one thousand seven hundred and ninety-two, and the first day of January, one thousand seven hundred and ninety-four, shall be appropriated to the support of civil government, and for the contingent charges thereof; and shall also be charged with the payment of all unsatisfied warrants charged on the said taxes and arrearages of taxes by the aforesaid act of last session of Assembly, of warrants which shall be hereafter issued for expences attending criminal prosecutions; for the state's shares in the Patowmac, James River, and Dismal Swamp Canal companies; for the hospital for the reception of persons of unsound mind; to the directors of the public buildings; for erecting public buildings at the federal seat of government on the Patowmac; for the expences attending the arsenal at the Point of Fork; for all pensions allowed by this commonwealth; and for expences which may accrue, by order of the Executive, in defence of the western frontier. And if the funds herein appropriated to the payment of the officers of civil government, and of warrants issued by direction of the Executive for the contingent purposes thereof; on account the of state's shares in the Patowmac, James River, and Dismal Swamp Canal Companies; for the hospital for the reception of persons of unsound mind; for erecting the public buildings at the federal seat of government on Patowmac; for all pensions due by this commonwealth, and for expences which may accrue, by order of the Executive, in defence of the western frontier, should not be productive early enough for those purposes, it shall be lawful for the Executive to direct the treasurer to borrow as much money as shall be deficient, out of any other funds, and to replace the same as soon as possible.

SEC. III. SO much of every act of Assembly as comes within the purview of this act, shall be, and the same is hereby repealed.

SEC. IV. *AND be it further enacted*, That it shall be lawful for the treasurer to pay to the agent of Caron de Beaumarchais, on warrant or warrants from the auditor, military, or other certificates of the sinking fund dated prior to the first day of January, one thousand seven hundred and ninety, to the amount of the liquidated claim of the said De Beaumarchais, and in like manner to any other public foreign creditor willing to accept of such payment; and also to exchange certificates of the said fund of a prior date to the said period, for any of the certificates of this commonwealth, dated subsequent to the first day of January one thousand seven hundred and ninety, and bearing an interest of six per centum.

SEC. V. THIS act shall commence in force from and after the passing thereof.

C H A P. IV.

An ACT for regulating the Militia of this Commonwealth.

[Passed December the 22d, 1792.]

Preamble.

SECTION I. **W**HEREAS the Congress of the United States did at their last session pass an act, intituled, "An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States;" and it is expedient for this Legislature to carry the same into effect, so far as it respects this state:

Arrangement of the militia in brigades and divisions;

SEC. II. *BE it therefore enacted*, That the counties of Accomack, Northampton, Princess-Anne, and Norfolk, shall compose one brigade; the counties of Nansemond, Isle of Wight, Southampton, Surry, Sussex, and Prince-George, one brigade; the counties of Elizabeth City, Warwick, York, James City, Charles City, New-Kent, Henrico, and Hanover, one brigade; the counties of Gloucester, Mathews, Middlesex, Essex, King William, King & Queen, Lancaster, Northumberland, Richmond, and Westmoreland, one brigade; and the said brigades shall compose one division. That the counties of Loudoun and Fairfax shall compose one brigade; the counties of Fauquier, Prince William, Stafford, and King George, one brigade; the counties of Culpeper, Orange, Spotsylvania, and Caroline, one brigade; the counties of Louisa, Goochland, Fluvanna, Albemarle, and Amherst, one brigade;

gade: and the said brigades shall compose another division. The counties of Frederick and Berkeley, shall compose one brigade; the counties of Rockingham, Augusta, and Shenandoah, one brigade; the counties of Wythe, Russell, Washington, Lee, Grayson, and Montgomery, one brigade; the counties of Botetourt, Rockbridge, Greenbrier, Bath, and Kanawha, one brigade; the counties of Hampshire, Hardy, Pendleton, Randolph, Harrison, Monongalia, and Ohio, one brigade; and the said brigades shall compose another division. The counties of Henry, Patrick, Franklin, Campbell, and Bedford, shall compose one brigade; the counties of Pittsylvania, Halifax, Charlotte, and Prince Edward, one brigade; the counties of Dinwiddie, Greenville, Brunswick, Lunenburg, and Mecklenburg, one brigade; the counties of Chesterfield, Amelia, Nottoway, Powhatan, Cumberland, and Buckingham, one brigade; and the said brigades shall compose another division.

SEC. III. *AND be it further enacted*, That the counties of Berkeley, Culpeper, Loudoun, and Frederick, shall compose two regiments, and four battalions each; that the counties of Middlesex and Essex, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of King & Queen and King William, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Northumberland and Lancaster, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Richmond and Westmoreland, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Powhatan and Cumberland, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Harrison and Randolph, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Russell and Lee, shall each compose one battalion, which two battalions shall compose one regiment; and the counties of Charles City and New-Kent, shall compose each one battalion, which two battalions shall constitute one regiment; the counties of Elizabeth City and Warwick, one battalion, and the counties of York and James City, one battalion, which two battalions shall compose one regiment; and each of the other counties in this commonwealth, and also the city of Richmond and borough of Norfolk, shall compose each one regiment and two battalions.

In regiments
and battalions.

SEC. IV. *AND be it further enacted*, That the General Assembly shall by joint ballot of both houses, appoint an Adjutant-General for the militia of this state, and also a Major-General to each division, and a Brigadier-General to each brigade; which Major-Generals and Brigadiers, shall reside within the limits of their respective commands. Each Major-General shall appoint his own aids de camp, and each Brigadier-General his own brigade inspector, who shall also reside within the limits of their respective divisions and brigades.

Officers, how
to be appointed.

SEC. V. *AND be it enacted*, That the courts of the several counties and corporations, shall from the field and other officers who at present hold commissions in the militia of the respective counties and corporations, proceed to recommend to the Executive, the officers necessary to complete the regiments and battalions and companies, pursuant to this act, by grades and seniority; and the persons so recommended, shall be commissioned by the Governor, agreeable to the constitution of this state.

SEC. VI. ALL persons holding commissions under the late militia laws of this state, and who shall not be recommended by their respective courts, shall be considered as supernumerary officers, and may be recommended by the respective county and corporation courts to supply vacancies hereafter happening in the officers of the militia.

Officers not recommended by
the county
courts to become supernumeraries.

SEC. VII. *AND* whereas it will be productive of considerable advantages to the disciplining the militia, to have frequent meetings of the commissioned officers of the several regiments and battalions: *Be it enacted*, That the commissioned officers of the several regiments and battalions shall meet twice in every year, for the purpose of being trained and instructed by the Brigade Inspector. The days and places of meeting to be fixed on by the commanding officer of the brigade to which the regiments and battalions belong. The officers thus assembled, shall each continue two days and no longer, for every time they shall be called out. Every officer failing to attend such meeting on being summoned (not having a reasonable excuse, to be adjudged of by a court-martial) shall forfeit and pay five dollars, to be appropriated as the other fines are by this act directed.

Commissioned
officers to meet
twice in every
year to be
trained.

SEC. VIII. IT shall be the duty of the Executive to number by ballot the several divisions, brigades, and regiments, and cause the same to be registered in the office of the Adjutant-General; and every commission hereafter issued by the Executive, shall express the number of the division, brigade or regiment respectively, to which the person to whom the same is directed shall belong.

Divisions, brigades and regiments to be numbered and registered in the adjutant-general's office

SEC. IX. *AND be it further enacted*, That the commanding officers of regiments, battalions, and companies, to be appointed and commissioned by virtue of this act, shall meet at their respective courthouses on some day in the month of March or April next, to be appointed by the commanding officers of regiments, then and there to divide their respective counties into districts for the purpose of forming the regiments, battalions, and companies, by this act established; which districts so laid off shall be designated by certain lines and bounds to be established by them, and recorded by the clerks of the courts-martial respectively, herein-after to be appointed.

Counties divided into districts for forming regiments, battalions and companies.

Repealed

Companies to
be divided into
divisions.

SEC. X. *AND be it further enacted*, That it shall be the duty of the commanding officers of each company so inrolled, to proceed forthwith to divide his company into divisions by ballot from one to ten, for the purpose of a regular routine of duty when called into actual service, and shall return a roster of each division and its number in rotation, within fifteen days, to the commanding officer of his battalion, who shall forthwith transmit the same to the commanding officer of the regiment, who shall order the same to be recorded by the clerk of the court-martial. The same regulations shall be observed by every commanding officer of a company, battalion, and regiment on the subsequent inrollment of any person therein, unless such person shall produce a certificate of his having been before draughted for the above purpose, in which case he shall be inrolled accordingly.

Persons ex-
empted from
militia duty.

SEC. XI. *AND be it further enacted*, That the members of the council of state; judges of the superior courts; speakers and clerks of both houses of the general assembly; the clerks of the superior and inferior courts; the attorney-general; the treasurer and his clerks; the auditor of public accounts and his clerks; clerks of the council of state; the register of the land-office and his clerks; all inspectors of tobacco; all professors and tutors and students at the college of William & Mary, and other public seminaries of learning; all ministers of the gospel licensed to preach according to the rules of their sect, who shall have previously taken before the court of their county an oath of fidelity to the commonwealth; keepers of the public, district, and county jails, and of the public hospital; millers; and all quakers and menonists religiously scrupulous of bearing arms, and having a certificate from their respective societies, according to the rules thereof, of their being members of such society, shall be, and they are hereby exempted from the duties required by this act.

SEC. XII. *AND* whereas it will be of great utility and advantage in establishing a well disciplined militia, to annex to each battalion a light company to be formed of young men from eighteen to twenty-five years of age, whose activity and domestic circumstances will admit of a frequency of training, not practicable or convenient for the militia in general, and returning to the main body on their arrival at the latter period, will be constantly giving thereto a military pride and experience, from which the best of consequences will result.

A company of
grenadiers,
light infantry,
or riflemen, to
be annexed to
each battalion.

SEC. XIII. *BE it enacted*, That the Governor with the advice of Council, shall issue commissions for a captain, lieutenant and ensign to each battalion out of the present commissioned officers therein; and the said companies shall be distinguished by the denomination of grenadiers, light-infantry or riflemen, at the discretion of the commanding officer of the battalion. Every person belonging to the said light companies, shall wear while on duty, such caps and uniforms as the Executive shall direct, to be purchased by the commanding officer of the battalion, out of the monies arising on delinquents. The captain thereof shall after qualifying as is directed for other officers, proceed to enlist by voluntary enlistments in his company, a sufficient number of young men as before described. And as the men of such light company shall from time to time arrive at the age of twenty-five years, the captain shall make report thereof to the commanding officer of the battalion, who shall order them to be inrolled in the company, whose districts they may respectively live in, and deficiencies shall be supplied by new enlistments, and the said companies shall in all respects be subject to the same regulations and orders as the rest of the militia.

A company of
cavalry, and a
company of ar-
tillery, to be
annexed to
each division.

SEC. XIV. *AND be it further enacted*, That the Governor with the advice of Council, shall and he is hereby empowered, to appoint and commission at their own discretion, at least one captain and two lieutenants in each division, who are hereby authorized and empowered to enlist by voluntary enlistment, and in such proportion to each officer respectively so appointed as the Executive shall direct, a company, to be denominated the company of artillery. In like manner commissions shall issue for at least one captain, two lieutenants, and one cornet, who shall also by voluntary enlistments, and in the same proportions to their respective ranks, enlist a company, to be denominated the company of cavalry. *Provided*, that the number of companies of artillery and of cavalry, shall not exceed one for each brigade.

Proviso.

Oaths of offi-
cers.

SEC. XV. *AND be it further enacted*, That each and every officer appointed and commissioned by virtue of this act, shall previous to their entering on the execution of their respective offices, take the following oath:—"I do swear that I will be faithful and true to the commonwealth of Virginia, of which I profess myself to be a citizen, and that I will faithfully and justly execute the office of a _____ in the _____ regiment of the militia of Virginia, according to the best of my skill and judgment: So help me God."

Adjutant-ge-
neral may con-
vene brigade-
majors and in-
spectors.

SEC. XVI. THE adjutant-general shall have full power and authority to convene the brigade majors and inspectors, at such times and places as the good of the service may require, and he shall think proper, and generally to establish such rules and regulations for conducting the business of his department, as he may think expedient and necessary. Any brigade major or inspector, failing to attend such meeting, when duly notified thereof, not having a reasonable excuse for such failure, shall forfeit and pay fifty dollars, to be appropriated as the other fines are directed by this act.

Sec. XVII. THERE shall be a private muster of each company of grenadiers, light-infantry, riflemen, artillery, and cavalry, once in every two months, except in the months of December, January and February, in every year, and every other company, formed by virtue of this act, once in three months, (except as before is herein excepted) to be appointed by the commanding officer thereof, at or as near as may be to the centre of his company district. There shall be a muster of each battalion in the month of May, in every year, to be appointed by the commanding officers of the regiments to which such battalions respectively belong, at, or as near as may be to the centre of the battalion, and a muster of each regiment in the month of October in every year, to be appointed by the brigadier general or commanding officer of the brigade, to which such regiment belongs, at, or as near as may be, to the centre of the regimental district; which said company, battalion, and regimental musters shall continue one day each, and no longer. Of the times and places of the said musters the brigadier generals or commanding officers of brigades for the time being, shall cause notice to be given to the commanding officers of regiments; the commanding officers of regiments shall give notice of the regimental and battalion musters to the commanding officers of battalions; the commanding officers of battalions shall give notice of the regimental and battalion musters, to the captains or commanding officers of the companies; and the captains or commanding officers of companies shall give notice of the regimental battalion and private musters, to every person of their respective companies; and to that end the commanding officers of companies shall have power to order so many of their sergeants as they shall think fit to give such notice, which may be done by personal summons by the said commanding officer, or sergeant so ordered, or by either of them leaving notice in writing at the usual place of abode of the person so to be notified. The notice to be given by the commanding officers of brigades, regiments and battalions, shall be in writing delivered in person, or left at the usual place of abode of each person to be notified, either by such commanding officers themselves, or by such officer or officers of their respective commands, as they may think fit to order. The said notices shall be given by the commanding officers of the brigade, to the commanding officers of regiments at least thirty days; by the commanding officers of regiments to the commanding officers of battalions, at least fifteen days; by the commanding officers of battalions to the commanding officers of companies, at least ten days; and by the commanding officers of companies to each person in their companies at least five days before such regimental, battalion, or private musters, (as the case may be) shall be appointed to be had. Any officer ordered as aforesaid to give such notices, and failing therein, shall for every offence forfeit and pay twenty dollars: And every sergeant so failing shall forfeit and pay three dollars for every such failure, to be recovered as other fines hereafter to be established. Every officer and soldier shall appear at his respective muster field on the day appointed by eleven o'clock in the forenoon. At every muster, each captain or commanding officer of a company shall call his roll, examine every person belonging thereto, and note down all delinquencies occurring therein, and make return thereof at the next regimental or battalion muster to the commanding officer of his battalion, including those which may occur on that day. And every commanding officer of a battalion, shall at their regimental or battalion musters (as the case may be) in like manner call his roll, examine and note down all delinquencies in his battalion, and make return thereof, together with those reported from commanding officers of companies, to the commanding officer of the regiment to which he belongs, on the day next succeeding such regimental or battalion musters, (as the case may be) who shall lay the whole before the court hereafter appointed to take cognizance of, and determine on them; Provided, that the commanding officer of a battalion shall not be obliged to extend his roll call, or individual examination, beyond the officers, unless he shall observe some apparent necessity therefor; and to each of the said returns shall be annexed the following certificate, to wit: "I do certify that the returns hereunto annexed, contain all the delinquencies which have occurred in my company since my last return, having examined the same as the law directs." And to the battalion returns shall be added, "and that the reports which accompany them, are all which have been made by the commanding officers of battalions."

Sec. XVIII. EVERY captain or commanding officer of a company, shall within ten days after every regimental and battalion muster, make up and report to the commanding officer of his battalion, a return of his company, in such manner and form as shall be furnished by the proper officer from time to time. It shall be the duty of the commanding officers of battalions to make like returns to the commanding officers of regiments in ten days after such regimental or battalion musters, who shall cause the adjutant of his regiment to make like returns thereof to their respective brigade inspectors within thirty days thereafter.

Sec. XIX. EACH captain or commanding officer of a company, shall appoint to his company four sergeants, four corporals, a drummer and fifer, to be approved of by the commanding officer of his battalion, and all vacancies, which may thereafter happen, shall be filled up by appointments in like manner.

Sec. XX. IN all cases of death, absence or resignation, of any lieutenant colonel commandant, major, or captain, the next officer in rank in his respective command, shall be considered as the commanding officer during such vacancy, and liable to perform the duties required by this act, and for neglect therein, shall incur the penalties annexed thereto.

Sec. XXI. IT shall be the duty of every commander of a regiment, battalion, or company, at every of their respective musters, to cause the militia to be exercised and trained agreeable to the mode of discipline preferred by Congress, under pain of being arrested and

Musters of the companies;

Of the battalions;

Of the regiments;

Notices of them, by whom & how to be given.

Penalties on officers, and sergeants failing to give the notices; Rolls to be called, and delinquencies noted.

Form of return of delinquencies.

Returns of companies;

Of battalions;

Of regiments;

Drummer and fifer to be appointed to each company.

The officer next in rank to take command, in the absence of his superior. Militia to be exercised.

tried for breach of their duty, and for this purpose the said officers are hereby authorized to order the most expert and fit officer in their respective commands, to perform that duty.

Officers to be furnished with printed copies of the rules of discipline.

SEC. XXII. AND to the end that a general knowledge of the rules of discipline established by Congress in their resolution of the twenty-ninth day of March, one thousand seven hundred and seventy-nine, may be diffused, the Executive is hereby authorized and required, to procure and have a sufficient number of copies of the said rules printed and bound in boards, to afford to every commissioned officer of the militia, one; and to cause them to be delivered to the commanding officers of brigades, to be by them duly distributed without delay; and upon the death, resignation, or removal of any officer, as aforesaid, the plan delivered him shall revert to the public, and the commanding officer of the battalion in which such vacancy shall occur, shall deliver the same to a new appointed officer, who may not have received one, and for defraying the necessary expense thereof, the Executive shall draw on the contingent fund.

Officers may be arrested for misbehaviour. Non-commissioned officers & soldiers may be confined or bound neck & heels for disobedience or mutiny.

SEC. XXIII. ANY officer who shall be guilty of disobedience, or other misbehaviour when on duty, or shall at any time be guilty of any conduct unbecoming the character of an officer, shall be put under arrest by his commanding officer, and tried as hereafter shall be directed.

Bystanders may be confined for molesting any officer or soldier on duty.

SEC. XXIV. IF any non-commissioned officer, or soldier, shall behave himself disobediently or mutinously, when on duty, or before any court, or board directed by this act to be held, the commanding officer, court, or board, may confine him for the day, or cause him to be bound neck and heels for any time not exceeding five minutes.

Colours to be procured;

SEC. XXV. IF any bystander shall interrupt, molest, or insult any officer or soldier while on duty at any muster, or shall be guilty of like conduct before any court or board as aforesaid, the commanding officer, or such court or board, may cause him to be confined for the day.

Drums & fifes, or bugle horns

SEC. XXVI. THE commanding officers of regiments shall cause to be purchased, out of the money arising from the fines, a set of colours for his regiment, and also a set of colours for each battalion in his regiment. He shall also procure in like manner, for each company in his regiment, a drum and fife, or bugle-horn, and on the colours and drums shall be marked the number of the regiment and battalion, together with the name of the county to which they belong.

Militia to be called forth in case of invasion, or insurrection.

SEC. XXVII. AND be it further enacted, That the Governor, with the advice of Council, be authorized and empowered, on any invasion or insurrection, or probable prospect thereof, to call forth such a number of militia, and from such counties as they may deem proper; and for the accommodation, equipment, and support of the militia, so at any time to be called forth, the Governor, with the advice aforesaid, may appoint such quarter-masters, commissaries, and other staff, as to them shall seem proper, and to fix their pay and allowances, and shall also take such measures for procuring, transporting, and issuing all stores which may be necessary, as to them shall seem best. Orders for the militia to be called forth, as aforesaid, shall be sent to the commanding officers of brigades, with a notification of the place or places of rendezvous, who shall immediately take measures for detaching the same, with the necessary number, and ranks of officers by detail and rotation of duty.

Each company to be furnished with a waggon, team, &c. by impressment or otherwise.

SEC. XXVIII. THE lieutenant colonel commandant, or commanding officers of regiments from which such detachments are drawn, shall cause to be procured by impressment or otherwise, for each company, a waggon, team, and driver, six axes, and six camp-kettles, or pots of convenient size, all which shall be delivered to the commanding officer of the company, who shall be accountable for returning the same when his tour is over, and the articles aforesaid shall be returned to the owners, who shall be allowed for the use of the same, whatever shall be adjudged by the court herein-after appointed for enquiring into delinquencies: And to the end that if any article impressed, be lost, the owner may be paid for the same, the lieutenant colonel commandant, or commanding officer, shall cause all property by him impressed by virtue of this act, to be valued by two or more freeholders on oath, before the same shall be sent away; and upon proof being made of any article being lost, the valuation thereof shall be allowed, without any allowance for the use, and the said allowance shall be certified to the auditor of public accounts. The said court shall make enquiry into the cause of such loss, and if it shall appear that the said loss was occasioned by the misconduct or inattention of any officer, the lieutenant colonel commandant, or commanding officer, is hereby authorized and required to prosecute a suit against such officer for the recovery of damages for the use of the commonwealth.

Articles impressed to be valued,

and the owners paid therefor if lost;

Officers answerable to the public, if lost thro' neglect.

Executive to appoint officers when necessary

SEC. XXIX. IF it shall appear to the Executive, upon calling forth the militia as aforesaid, that the necessary number and ranks of officers will not attend the detachments for officering them at the places of rendezvous, the Governor, with the advice of Council, is hereby authorized to appoint such officers as may be necessary from the counties called upon, as they may think proper, to join the detachment so raised.

Commanding officer in a county may order out militia in invasions or insurrections.

SEC. XXX. IF a sudden invasion shall be made into any county in this commonwealth, or in case of an insurrection in any county, the commanding officer in such county is hereby authorized and required, to order out the whole or such part of his militia as he may think necessary, and in such manner as he may think best, for repelling or suppressing such insurrection, and shall call on the commanding officers of regiments in the adjacent counties, for such aid as he

may think necessary, who shall forthwith in like manner furnish the same; and for assembling the militia required upon such occasions, or by orders of the Executive, the same measures shall be taken to summon them as is directed in the case of musters.

SEC. XXXI. WHENEVER any militia shall be called forth into actual service as aforesaid, they shall be governed by the articles of war which govern the troops of the United States. And courts-martial shall be held as are therein directed, to be composed of militia officers only, for the trial of any person in the militia; but to the cashiering of any officer, or capital punishment of any person, the approbation of the Executive shall be necessary; and when any militia shall be in actual service, they shall be allowed the same pay and rations as are allowed by the Congress of the United States to the troops in the service of the United States.

Militia in service to be governed by the articles of war of the United States.

Their pay and rations;

SEC. XXXII. AND be it further enacted, That the commanding officer of every battalion of militia, shall from time to time, as he shall deem it necessary, appoint an officer, and so many men of the militia as to him shall seem necessary, not exceeding four, once in every month, or oftener if thereto required by such officer, to patrol and visit all negro quarters and other places suspected of entertaining unlawful assemblies of slaves, servants, or other disorderly persons, as aforesaid, unlawfully assembled, or any others strolling about from one plantation to another, without a pass from his or her master, mistress, or owner, and carry them before the next justice of the peace, who, if he shall see cause, is hereby required to order every such slave, servant, stroller, or other disorderly person as aforesaid, to receive any number of lashes, not exceeding twenty, on his or her bare back; and in case one company of patrollers shall not be sufficient, more companies may in like manner be ordered for the same service. And after every patrol, the officer of every party shall return to the captain of the company to which he belongs, a report in writing upon oath (which oath such captain is hereby empowered to administer) of the names of those of his party who were upon duty, and of the proceedings of such patrol; and such captain shall once in every month deliver such patrol returns to the commanding officer of his battalion, by whom they shall be certified and laid before the next court-martial; and if they shall adjudge the patrollers to have performed their duty according to law, the said court shall certify the same to the county court, who are thereupon empowered and required to levy fifty cents for every twelve hours each of them shall so patrol; and every commanding officer failing to appoint patrollers according to the directions of this act, shall forfeit and pay thirty dollars; and every person appointed to patrol, failing to do his duty, shall forfeit and pay three dollars for every such failure; which fines, shall be laid, collected, accounted for, and appropriated as is herein directed for laying, accounting for, and appropriating the several fines and penalties by this act directed.

Patrollers to be appointed;

Their duty;

Their pay; 3/ for every 12 hours patrol
Penalty for failing to do their duty;

Courts-martial to be held for the trial of officers;

Officers, by whom to be arrested.

Appeals may be made from the sentence of a court-martial to the Executive;

Evidence, how to be procured,

Courts for assessment of fines, when & where to be held;

SEC. XXXIII. AND WHEREAS it is necessary that certain tribunals be instituted for the trial of offences as they are to be viewed in a military light, as well as for enquiring into delinquencies and assessing fines thereon: Be it therefore enacted, That the Governor shall have power to arrest the major generals and all other officers for any misconduct whatever, and upon trial and conviction, may censure or cashier them; a lieutenant colonel commandant may arrest any officer under his command, and report him to the Governor for trial, or at the option of such lieutenant colonel commandant, a general court-martial, to consist of thirteen officers, may by his order be held within the limits of his regimental district, for trial of such as shall be under the rank of a field officer. The president of the said court shall be a field officer, and six at least of the members shall be captains, and where there is not a sufficient number of officers in any regiment to constitute a court where the arrest is made, the commanding officer of the regiment may call upon the commanding officer of any adjacent regiment, to order as many officers from such regiment as will be sufficient to make a court, and such court may, on conviction, censure or cashier any officer so tried, and their sentence shall be final; saving to such officer an appeal to the executive, if he shall think proper, in which case the commanding officer shall furnish him with a copy of the proceedings of the said court. Any non-commissioned officer, or soldier, offending, shall be tried by a like general court martial, and may, on conviction, be censured or fined at the discretion of the court. For obtaining the necessary evidence for the trials aforesaid, the governor, or the commanding officer of the regiment (as the case may be) shall issue his summons, and any person so summoned failing to attend, shall forfeit and pay, upon a summons from the governor, thirty dollars, and upon a summons from the commanding officer of a regiment, fifteen dollars; to be reported by the commanding officer, amongst other delinquencies, to the court aforesaid.

SEC. XXXIV. AND be it further enacted, That the commanding officers of regiments shall, on some day in the months of May and October, not exceeding fifteen, nor less than ten days after their regimental and battalion musters, order the commanding officers of battalions and of companies, to meet at the places where their last battalion musters respectively were held, a majority of whom shall form a court of enquiry and assessment of fines, and it shall be the duty of the lieutenant colonel commandant to preside at such boards, and in case of his absence by sickness or otherwise, the next officer in rank shall preside. The said court shall take the following oath, to be administered by the senior officer present, and afterwards by any other officer of the said board to him, to wit: "I do swear, that I will truly and faithfully, enquire into all delinquencies which appear on the returns to be laid before me, and will assess the fines thereon as shall seem just, without favor, partiality, or affection," "So help me GOD." The lieutenant colonel commandant shall then lay before the said court

all delinquencies, as directed by this act, whereupon they shall proceed to hear and determine on them.

Fines to be col-
lected by the
sheriff

SEC. XXXV. ALL fines to be assessed by virtue of this act, shall be collected by the sheriff of the county, upon a list thereof certified by the clerk of the said court, and delivered to the sheriff, on or before the first day of January, in every year, who shall give his receipt therefor, and account for the same to the lieutenant colonel commandant, or his successor, and be allowed the same commissions as for other public monies, on or before the first day of November in the same year; and on failure, the commanding officer, or his successor, shall, on ten days previous notice, obtain judgment for the same in the county or corporation court with costs; and should any person so charged with fines, fail to make payment on or before the first day of May, in any year, the sheriff is hereby authorized to make distress and sale therefor, in the same manner as is directed in the collection of the taxes.

by distress,
when necessa-
ry

Officers to ren-
der accounts of
fines received.

SEC. XXXVI. THE commanding officer of every regiment shall on or before the thirty first day of December, in every year, render to the Executive an account upon oath of all monies which have come into his hands by virtue of his office, and of his disbursements; and if there shall remain any money in his hands, the same shall be paid into the treasury in aid of the contingent fund.

Fines to be paid
for delinquen-
cies;
By a command-
ing officer of a
regiment;

SEC. XXXVII. AND for enforcing obedience to this act, *Be it enacted*, That the following forfeitures and penalties shall be incurred for delinquencies, viz. By a lieutenant-colonel commandant, or commanding officer of a regiment, for failing to take any oath, to summon any court or board, to attend any court or board, to transmit any recommendation of an officer or officers to the governor, to deliver any commission or commissions, to appoint a regimental or battalion muster, to report delinquencies, to make returns of his regiment as by this act directed, shall for each and every such offence or neglect, forfeit and pay seventy dollars; failing to send into actual service any militia legally called for, or to turn out his militia upon any invasion or insurrection of his county, two hundred dollars. By a major for failing to take any oath, to attend any court or board, to give notice of any regimental or battalion muster, to examine his battalion, to report delinquencies, or to make any return as directed by this act, he shall forfeit and pay for each and every offence or neglect, thirty dollars; failing to call forth from his battalion with due dispatch, any detachment of men and officers, as shall be required from time to time by the commanding officer, or any call from the governor, invasion of or insurrection in his county, or requisition from any neighbouring county, eighty dollars. By a captain for failing to take an oath, to attend any court, to inroll his company, to appoint private musters, to give notice of a regimental or battalion muster, to attend any muster armed, to call his roll, examine his company and report delinquencies, to make any return as directed by this act, he shall forfeit and pay for each and every such offence and neglect, twenty dollars; failing to call forth such officers and men as shall from time to time be legally called from his company, upon any call from the Governor, invasion of, or insurrection in the county, or requisition from an adjacent county, or failing on any such occasion to repair to the place of rendezvous, he shall forfeit and pay forty dollars. By a subaltern officer for failing to take any oath, to attend any court, or muster armed as directed, for each and every such offence he shall forfeit and pay ten dollars; failing to repair to the place of rendezvous, armed as required, when ordered upon any call from the Governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay twenty dollars. And moreover the said officers, for any of the said offences, shall be liable to be arrested and tried for the same as military offenders. By a non-commissioned officer or soldier, for failing to attend at any muster, armed and equipped as directed by law, fifty cents; failing to repair to his rendezvous when ordered, upon any call from the Governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay ten dollars.

By a major;

By a captain;

By a subaltern;

By a non-com-
missioned offi-
cer or private.

Arms, &c. of
militia, ex-
empted from
executions,
distresses, &c.
and their per-
sons from ar-
rests, at musters
and in service.

SEC. XXXVIII. ALL arms, ammunition, and equipments of the militia, shall be exempted from executions and distresses at all times, and their persons from arrests in civil cases, while going to, continuing at, or returning from musters, and while in actual service.

SEC. XXXIX. THE commanding officers of regiments shall on the day of his regimental muster first to be held under this act, his muster being over, order the majors and captains of his regiment to assemble at some convenient place, at or near the muster-ground, and then and there appoint by ballot a clerk and provost martial, who shall attend the courts or boards hereinafter directed to be held; such clerk shall keep a fair record of the proceedings of such courts or boards, as also of the roster returned by the several captains or commanding officers of companies for regular routine of duty, and all other duties required by this act; and together with the provost martial, receive such allowance, to be paid out of the fines arising from delinquencies, as the court or board shall think reasonable.

Richmond,
Williamsburg,
and Norfolk
militia to be
under the like
regulations as
the militia of
the counties.

SEC. XL. THE militia of the city of Williamsburg, city of Richmond, and borough of Norfolk, shall have their officers appointed, and be under the same rules and regulations as the different counties.

SEC. XLI. THE commanding officers of regiments are hereby empowered to receive the commission of any officer in his regiment, who may think proper to resign, and shall notify such resignation to the next succeeding court, in order that such vacancy may be supplied.

*Disputed
of the
Jan 1793*

SEC. XLII. ANY court martial may for good cause shewn, remit any fines imposed by a former court martial, provided that not more than two courts martial shall have intervened between such imposition and application for remission.

Courts martial may remit fines ;

SEC. LXIII. COURTS martial may exempt any militia man from duty on account of bodily infirmity, and may again direct such persons to be inrolled when able to do duty.

And exempt persons from militia duty for bodily infirmities.

SEC. LXIV. FOR the trial and punishment of the adjutant general, major generals, and brigadier generals, *Be it enacted*, that any major general or brigadier general offending under this act, shall be arrested and tried in the following manner, viz. A major general shall be arrested by the commander in chief of the state upon any misconduct of his own knowledge, or upon complaint lodged in writing by any commissioned officer, who shall thereupon order a general court martial, to consist if convenient of the remaining major generals, the brigadier generals of the division, over which such major general is appointed, or as many of them as can conveniently attend, and as many lieutenant colonel commandants and majors, as shall make up the number of thirteen in the whole, who shall constitute a court martial for the trial of such offenders. Any brigadier general may in like manner be arrested for any offence committed under this act, by the commander in chief of the state, or by the major general of the division to which he belongs, and tried by a court martial, to consist of one major general, and not more than four brigadiers, and as many lieutenant colonel commandants, majors, and captains, as will be sufficient to constitute a court, to consist of thirteen members in the whole, which courts shall proceed to hear and determine all such offences, and give judgment according to the right of the case, to be approved or disapproved by the commanding officer of the state.

Courts martial for the trial of general officers.

By whom they may be arrested.

SEC. LXV. *AND be it further enacted*, That the adjutant general shall be allowed four hundred dollars per year ; and that each brigade inspector shall be allowed one hundred and fifty dollars per year, for the duties herein required of them, to be paid by the treasurer, on warrant from the auditor, who is hereby authorized and required to grant the same quarterly, on proper application being made.

Salaries of the adjutant general and brigade inspectors.

SEC. LXVI. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this act.

C H A P. V.

An ACT for reducing into one, the several Acts concerning Executions, and for the relief of Insolvent Debtors.

[Passed December the 13th, 1792.]

SECTION I. *BE it enacted by the General Assembly*, That all persons recovering any debt, damages or costs, by the judgment of any court of record within this commonwealth, may, at their election, prosecute writs of *fiery facias*, *elegit*, and *capias ad satisfaciendum*, within the year, for the taking the goods, lands, or body of the person or persons against whom such judgment is obtained, in manner following : All such writs shall run in the name of the commonwealth, and bear teste by the clerks of the said courts respectively, shall be returnable to the first day of the next succeeding court, so that there be always at least fifteen days between the teste and return of each of the said writs : *Provided*, that executions may be issued from the General Court returnable to the second term of the said court, following the day of issuing the same ; and that executions shall issue to any sheriff or coroner from the clerks of the District Courts, and be returnable to the first day thereof. *And provided also*, that if the plaintiff in any county or other inferior court, shall desire an execution to issue, returnable, at a further day, the clerk shall issue the same accordingly, so as the day of such return be upon a court day within ninety days next after the teste thereof, and that the forms of the said several writs shall be as follows, *mutatis, mutandis*, to wit ;

Writs of execution.

How to be issued and returned.

Fifteen days at least between teste & return.

From the general and district courts, when returnable.

Forms of the writs.

" A FIERI FACIAS IN DEBT.

" THE commonwealth of Virginia, to the sheriff of _____ county, greeting : WE command you, that of the goods and chattels of A. B. late in your bailiwick, you cause to be made the sum of _____, which C. D. lately in our court hath recovered against him for debt ; also the sum of _____, which to the said C. D. in the same court were adjudged for his damages, as well by reason of detaining the said debt, as for his costs in that suit expended, whereof he is convicted, as appears to us of record, and that you have the said _____ before the judges or justices (as the case may be) of our said court, the _____ day of _____, to render to the said C. D. of the debt and damages aforesaid. And have then there this writ. Witness, &c."

Against goods and chattels.

Debt.

The same in case, upon a Promise :

AS before unto _____ " for his damages, which he sustained, as well by reason of his not performing a certain promise and assumption to the said C. D. by the said A. B. lately made, as for his costs by him about his suit in this behalf expended, &c."

Case, assumption.

IN TRESPASS.

Trespas. AS before unto "for damages, as well by occasion of a certain trespass by the
" said A. B. to the said C. D. offered as for his costs, &c."

If for the defendant, say,

For the de- " FOR his costs about his defence in a certain action at the suit of the said," &c.
fendant.

IN COVENANT.

Covenant. AS before unto "for damages, &c. by occasion of a breach of a certain cove-
" nant between the said A. B. and C. D. lately made, &c."

The form of a writ of "ELEGIT."

Against lands " THE commonwealth, &c. greeting: Whereas A. B. at our court, &c. be-
and tenements. " fore our judges (or justices) held, hath recovered against C. D. the sum of
" which to the said plaintiff was adjudged for a certain debt or damages," as be-
" fore ;" and the said A. B. hath chosen to have delivered to him all the goods and
" chattels of the said C. D. saving only the oxen and beasts of his plough, and also a moiety
" of all his lands and tenements in your bailiwick, to have and to hold the goods and chattels
" aforesaid as his own proper goods, and the said moiety as his freehold to him and his assigns,
" until he shall have levied thereof the debt and damages aforesaid: Therefore we command
" you that you cause to be delivered, all the goods and chattels of the said C. D. saving the
" oxen and beasts of his plough, and also a moiety of all his lands and tenements in your
" bailiwick, whereof he at the day of obtaining the said judgment was seized, or at any time
" afterwards, by reasonable price and extent, to have and to hold the said goods and chattels,
" to him the said A. B. as his own proper goods and chattels, and the said moiety as his free-
" hold, to him and his assigns, until he shall have levied thereof the debt and damages afore-
" said, and that you certify our said judges (or justices) under your own seal, and the seals of
" those by whose oath you shall make this extent and appraisement, how you execute this writ,
" the day of . And have then there this writ, &c."

A CAPIAS AD SATISFACIENDUM.

Against the " THE commonwealth, &c. greeting: We command you, that you take A. B. late of
body. " , if he be found within your bailiwick, and him safely keep, so that you have
" his body before our judges (or justices) of our court, &c. day of
" to satisfy C. D. the sum of which the said C. D. hath recovered against him for
" debt, also, &c." as before.

IN CASE, TRESPASS, or COVENANT, as in the FIERI FACIAS.

Forms of the " WHICH said writs so issued, shall be executed by the sheriff or other officer to whom the
returns. same shall be directed, and shall be returned according to the respective forms hereafter men-
tioned, to wit:

The return of a FIERI FACIAS.

Fieri facias ex- " BY virtue of this writ to me directed, I have caused to be made the within mentioned
ecuted. " sum of , of the goods and chattels of the within named A. B. which said sum
" of before the judges (or justices) within mentioned, at the day and place
" within contained, I have ready, as that writ requires."

O R,

Where no " THE within named A. B. hath no goods or chattels within my bailiwick, whereof I can
goods. " make the sum within mentioned."

O R,

Where part is " BY virtue, &c. I have caused to be made of the goods and chattels of the within nam-
levied. " ed A. B. the sum of , which I have ready to render to the within named C. D.
" in part of the debt and damages within mentioned: And I do further certify, that the said
" A. B. hath no more goods and chattels within my bailiwick, whereof at present I can make
" the residue of the said debt and damages, as by the said writ is required."

Return of a writ of ELEGIT

Elegit execu- " INQUISITION indented, taken at , in the county aforesaid, the
ted. " day of , in the year of our Lord , before me E. F. sheriff in the
" county aforesaid, by virtue of a writ to me directed, and to this inquisition annexed, and by
" the oath of A. B. C. &c. good and lawful men of my bailiwick, who being charged and
" sworn upon their oath do say, that A. B. in the said writ to this inquisition annexed, named,
" the day of the caption of this inquisition, was possessed of the goods and chattels following,
" as of his own proper goods, to wit, of the price of which
" I, the said sheriff, have caused to be delivered to the same C. D. to hold to him as his own
" proper goods and chattels, in part of satisfaction of his debt and damages aforesaid, in the said

" writ mentioned; and further the said jurors upon their oath do say, that the said A. B. at the time of rendering the judgment aforesaid, was seized in his demesne, as of fee, of and in [here name the houses and lands] with the appurtenances of the annual value in all the issues beyond reprises of pounds, acres of which, or thereabouts, are a true and equal moiety of all and singular the lands, tenements, and hereditaments whatsoever, in the county aforesaid, of the said A. B.; which said moiety, I the said sheriff, the day aforesaid, to C. D. in the said writ named, at a reasonable extent, have delivered to hold to him and his assigns, as his freehold, according to the form of the act in that case made and provided, until he shall have levied the residue of the debt and damages aforesaid, as the writ aforesaid requires; and further the said jurors upon their oath do say, that the said A. B. at the time of giving the judgment aforesaid, had not, nor at the day of taking this inquisition, hath any other or more goods and chattels, lands or tenements in the county aforesaid, to the knowledge of the jurors aforesaid. In testimony whereof, as well I the said sheriff, as the jurors aforesaid, to this inquisition have severally put our seals, the day, year, and place above mentioned."

Return of a CAPIAS AD SATISFACIENDUM.

" BY virtue of this writ to me directed, I have taken the within named A. B. whose body before the judges (or justices) within named, at the day and place within contained, I have ready to satisfy C. D. of the debt and damages within mentioned, as within to me is commanded."

Capias executed.

O R,

" THE within named A. B. is not found in my bailiwick."

Not executed.

SEC. II. WHEN any writ of execution shall issue, and the party at whose suit the same is issued, shall afterwards desire to take out another writ of execution at his own proper costs and charges, the clerk may issue the same, if the first writ be not returned and executed; and where, upon a capias ad satisfaciendum the sheriff shall return that the defendant is not found, the clerk may issue a fieri facias; and if upon a fieri facias, he shall return that the party hath no goods, or that only part of the debt is levied, in such case it shall be lawful to issue a capias ad satisfaciendum upon the same judgment; and where part of a debt shall be levied upon an elegit, a new elegit shall issue for the residue; and where nihil shall be returned upon any writ of elegit, a capias ad satisfaciendum, or fieri facias may issue, and so vice versa; and where one judgment is obtained against several defendants, execution thereon shall issue as if it were against one defendant, and not otherwise.

In what manner another execution may be issued where the first has not been served, or has not been satisfied.

SEC. III. IF a tenant, by elegit be evicted of his title in the lands, tenements, or hereditaments which he holds by virtue of any extent thereof, by judgment had against him, otherwise than by his own fraud or default, before satisfaction shall be made him for his debt, or damages, and costs, he shall and may have a writ of scire facias against the debtor, his heirs, executors, or administrators; and may thereafter sue out such other writ of execution for the residue of his debt or damages, and costs, as shall appear to remain unpaid, as if no execution had been theretofore issued.

Tenant by elegit, if evicted may have a scire facias against his debtor, and another execution for his debt, &c. No extent to be avoided for omission of part of the lands extendible. Saving remedy of contribution.

SEC. IV. WHEN any judgment or recognizance shall be extended, the same shall not be avoided or delayed by occasion that any part of the lands or tenements extendible are or shall be omitted out of such extent.

SEC. V. SAVING always to the party and parties whose lands shall be extended, his and their heirs, executors, and assigns, his and their remedy for contribution against such person and persons, whose lands are or shall be omitted out of such extent, from time to time.

SEC. VI. PROVIDED nevertheless, That this act or any thing therein contained, shall not be construed to give any extent or contribution against any heir within the age of twenty-one years, during such minority of such heir, for or in respect of any lands to such heir descended, further or otherwise than might have been made before the making of this act.

Infants lands excepted.

SEC. VII. IF any person being in prison charged in execution, shall happen to die in execution, the party or parties at whose suit or to whom such person shall stand charged in execution, for any debt or damage recovered, his or their executors or administrators may after the death of the person so dying in execution, lawfully sue forth and have new execution against the lands and tenements, goods and chattels, or any of them, of the person so deceased.

If a debtor dies in prison, creditors may have new executions against his estate.

SEC. VIII. PROVIDED always, That this act shall not extend to give liberty to any person or persons, their executors or administrators, at whose suit any such party shall be and die in execution, to have or take any new execution, against any the lands, tenements or hereditaments of such party dying in execution, which shall at any time after the said judgment or judgments be by him sold in bona fide, for the payment of any of his creditors, at whose suit he shall be in execution, and the money paid or secured to be paid to any such creditors, with their privity, in discharge of his or their debts, or some part thereof.

Debtor may sell his lands for the benefit of his creditors at whose suit he is in execution. Persons in execution delivered by privilege of the general assembly to return in execution when that ceaseth.

SEC. IX. IF any person taken in execution be delivered by privilege of either house of assembly, so soon as such privilege ceaseth, he shall return himself a prisoner in execution, or be liable to an escape.

Executions from a county court may be served in any other county.

SEC. X. WHERE judgment shall be obtained in any county court or other inferior court of record within this commonwealth, for any debt or damages, and the person against whom such judgment shall be obtained, shall remove himself and his effects, or shall reside out of the limits of the jurisdiction of such court, it shall be lawful for the clerk of the court, where judgment was given, at the request of the party for whom the same was rendered, to issue any writ of fieri facias, or capias ad satisfaciendum, or any other legal or proper writ of execution or attachment for the non performance of a decree in chancery (as the case may require) in the form and under the teste herein before prescribed, and to direct the same to the sheriff of any county, or serjeant of any corporation within this commonwealth, where the defendant or debtor, or his goods shall be found, which said sheriff or other officer, to whom the same shall be directed, is hereby empowered and required to serve and execute the same, and shall make return thereof to the court where the judgment was given, in the manner herein before prescribed and directed.

Property in goods bound from delivery of execution to the officer. Time of delivery to be endorsed by the officer.

SEC. XI. NO writ of fieri facias or other writ of execution, shall bind the property of the goods, against which such writ is sued forth, but from the time that such writ shall be delivered to the sheriff, under sheriff, coroner, or other officer to be executed; and for the better manifestation of the said time, such sheriff, coroner or other officer, his deputy or agent, shall upon the receipt of any such writ, without fee for doing the same, endorse upon the back thereof, the day of the month and year, when he received the same; and if two or more writs shall be delivered against the same person, in the same day, that which was first delivered, shall be first satisfied.

Goods taken by execution, when & how to be sold.

SEC. XII. ON all executions hereafter issued, the sheriff or other officer, having published notice of the time and place of sale, at the door of the court house of his county, on some court day, and at some public place near the residence of the debtor, at least ten days before such sale, shall proceed to sell by auction, the goods or chattels so taken, or so much thereof, as shall be sufficient to satisfy the judgment or decree, for the best price that can be got for the same.

Officer may accept security for goods until the day of sale.

SEC. XIII. *Provided always,* That if the owner of such goods and chattels, shall give sufficient security to such sheriff or officer, to have the same goods and chattels forth-coming at the day of sale, it shall be lawful for the sheriff or officer, to take a bond from such debtor, and securities, payable to the creditor, reciting the service of such execution, and the amount of the money or tobacco, due thereon, and with condition to have the goods or chattels forth-coming at the day of sale, appointed by such sheriff or officer, and shall thereupon suffer the said goods and chattels to remain in the possession, and at the risk of the debtor, until that time; and if the owner of such goods and chattels, shall fail to deliver up the same according to the condition of the bond, or pay the money or tobacco, mentioned in the execution, such sheriff or officer shall return the bond to the office of the clerk of the court from whence the execution issued, to be there safely kept, and to have the force of a judgment; and thereupon it shall be lawful for the court, where such bond shall be lodged, upon motion of the person to whom the same is payable, his executors or administrators, to award execution for the money and tobacco therein mentioned, with interest thereon from the date of the bond, till payment and costs, provided the obligors, their executors or administrators, or such of them, against whom execution is awarded, have ten days previous notice of such motion; and upon such execution, or on any execution awarded on any bond which shall hereafter be given to replevy an estate taken by a former execution, the sheriff or officer shall not take any security, either to have the goods forth-coming at the day of sale, or for the payment of the money at a future day; but shall levy the same immediately, and keep in his hands the goods and chattels taken thereupon, until he shall have sold sufficient thereof to raise the money and tobacco, mentioned in the execution, or the same be otherwise satisfied.

Proceedings on the bonds where the goods are not delivered.

No security to be taken on executions thereon or on replevy bonds.

SEC. XIV. AND for the better direction of such officer, the clerk shall endorse upon any such execution, "that no security of any kind is to be taken."

Forth coming bonds to be returned within 60 days.

SEC. XV. IF any sheriff or other officer, shall fail to deliver or return any bond taken for the forth-coming of property, by virtue of this act, within sixty days after the date thereof, to the office of the clerk of the court, whence such execution issued, he shall be liable to the same penalty for every month of such failure, to be recovered in the same manner, as is directed by law, against a sheriff or coroner failing to return an execution.

No security to be taken on executions against sheriffs for money received by them by virtue of executions, Or on executions against collectors of poor rates, or against overseers of the poor.

SEC. XVI. WHEN execution shall issue against the estate of any sheriff or under sheriff, or their securities, upon a judgment obtained against such sheriff, or under sheriff and securities, for money or tobacco received by such sheriff, or under sheriff, by virtue of any execution or process, levied or executed by him or them, or for any money collected or received by them in any manner as sheriffs; no security for payment of the money or tobacco mentioned in such execution at a future day, or to have the goods forth-coming at the day of sale, shall be taken or received; but the officer taking such estate in execution, shall proceed immediately to the sale thereof, notwithstanding such security shall be tendered: And for the better direction of such officer, the clerk issuing such execution shall endorse thereon, "that no security of any kind is to be taken." In like manner, on all executions which may issue against any collector of the poor rates, his heirs, executors, or administrators, or against any overseer or overseers of the poor, his or their heirs, executors or administrators, on any judgment obtained, or which hereafter may be obtained against him or them, for or on account of any money or tobacco,

which have or may hereafter come to his or their hands, levied for the support of the poor, the clerk shall endorse, "no security to be taken."

SEC. XVII. NO sheriff or other officer to whom any writ of *feri facias* shall be directed, shall take in execution any slave or slaves, unless the debt and costs mentioned in such *feri facias*, shall amount to the sum of thirty-three dollars, or two thousand pounds of tobacco, provided there be shewn to such sheriff or officer, by the defendant or any other person, sufficient other goods or chattels of such defendant within the bailiwick of such sheriff or officer, upon which he may levy the debt and costs mentioned in such *feri facias*.

In what case slaves may not be seized.

SEC. XVIII. WHERE any slave or slaves shall be taken in execution and sold, the names of such slaves shall be certified on the back of such execution, and returned to and recorded among the records of the court, where such execution shall issue.

Names of slaves taken by executions, to be endorsed thereon.

SEC. XIX. IF the goods taken by any sheriff or other officer, or any part thereof shall remain in his hands unsold, he shall make return accordingly, and thereupon the clerk of the court from whence the execution issued, shall and may, and he is hereby required to issue a *venditioni exponas* to such sheriff or other officer directed, whereupon the like proceedings shall be had, as might and ought to have been had on the first execution; which writ of *venditioni exponas* shall be in the form following:

When a writ of venditioni exponas shall be issued.

"THE commonwealth, &c. greeting: We command you, that you expose to sale, those goods and chattels of A. B. to the value of _____, which according to our command you have taken, and which remain in your hands unsold, as you have certified to our judges (or justices) of our _____ court, to satisfy C. D. the sum of _____ whereof in our said court he hath recovered execution against the said A. B. by virtue of a judgment in the said court, and that you have, &c."

Form of the writ.

SEC. XX. WHEN any sheriff or other officer, shall serve any writ of execution on slaves, horses or any live stock, and the same shall not be immediately replevied or restored to the debtor, it shall and may be lawful for such officers, and they are hereby required to provide sufficient sustenance for the support of such slaves or live stock, until such slaves or stock shall be sold, or otherwise legally discharged from such execution; and upon the return of any execution, the court may and shall, upon the motion of the officer serving the same, settle and adjust what such officer shall be allowed for his expenses incurred by supporting such slaves or stock; and the said officer shall, and may be allowed to retain the same out of the money arising from the sale of the said slaves or stock.

Slaves and live stock taken by execution to be supported by the officers.

Expense there of to be paid out of the sales

SEC. XXI. IF any sheriff shall levy an execution on property, and a doubt shall arise whether the right to such property is in the debtor or not, such sheriff shall summon a jury, being freeholders or others qualified to serve as jurors in the district courts, to enquire into the right of property; and if such jury shall find the right of the property to be in the debtor, such finding, shall justify the sheriff in any action brought against him for taking and selling such property, or if the right to the property shall be found in any person other than the debtor, such finding, shall justify the sheriff in delivering up such property; saving to all persons claiming such property, the liberty of asserting their rights thereto, and such inquisition of the jury shall be returned to the court from whence such execution issued.

Jury to be impannelled to try the right to property under execution, when it is disputed.

Finding of the jury not to be conclusive as to the rights of any.

SEC. XXII. IF the goods or other estate taken in execution, cannot be sold for three-fourths of their value at the least, in the opinion of the persons hereafter directed to be appointed for that purpose, it shall and may be lawful, for the debtor or debtors, or any of them, to enter into bond with sufficient securities, to be approved by the persons aforesaid, to pay the money or tobacco for which execution was so served, and all costs, with lawful interest for the same, to such creditor, within twelve months: And on such bond being given, the sheriff or other officer shall restore to such debtor the goods or estate so taken, and when no such bond and security shall be offered by the debtor, or any person for him, and the goods or other estate taken in execution, cannot in the opinion of the persons aforesaid, be sold for three-fourths of their value at the least, the sheriff or other officer shall set up and sell the same for money or tobacco (as the case may be) to be paid at the end of twelve months; and shall take bond of the buyer or buyers, with one or more sufficient securities, to pay the same accordingly, with interest, to such creditor.

Where goods cannot be sold for 3/4ths of their value the debtor may give bond and security to pay the debt, &c. in 12 months.

If such bond be not given, the officer may sell the goods on 12 months credit,

SEC. XXIII. ALL and every bond or bonds, so taken in pursuance of this act, shall mention that the same was or were entered into, for goods or other estate taken in execution, and returned to the debtor, or sold to the obligor (as the case may be) and shall have the force of judgments, and shall also be assignable; and such sheriff or other officer taking such bond, shall deliver the same to the creditor, or his attorney, or return it to the office of the clerk of the court from whence such execution issued, there to be safely kept, until demanded by the creditor or his attorney; and if the money or tobacco shall not be paid according to the condition of any such bond, it shall be lawful for the creditor or his assignee, or the attorney of such creditor or assignee, to lodge the same, with an affidavit, that the money or tobacco for which such bond was given, or part thereof, is still due, with the clerk of the court from whence the execution issued, and such clerk shall and may thereupon issue an execution for so much as shall appear from the said bond and affidavit to be still due; and upon such execu-

Tenor of the bonds.

To have the force of judgments.

Proceedings to be had thereon.

tion the sheriff or other officer shall not take any security for the payment of the money or tobacco at a future day, but shall levy the same immediately, and sell the property on which the execution shall be so levied, for the best price that can be had for the same.

Where the obligors or obligees die.

SEC. XXIV. IF any obligor or obligors, obligee or obligees, in any twelve months replevy bond taken on any execution under this act, or assignee of any such obligee (as the case may be) shall die before such bond shall be fully paid, it shall and may be lawful for the clerk of any court within this commonwealth, upon the application and oath of the executors or administrators of any such obligee or assignee, that the amount of such bond is not discharged, to issue a writ of execution against every such obligor or obligors, his or their executors or administrators, and to endorse thereon that "no security is to be taken;" any law to the contrary notwithstanding.

Executions thereon, issued after payment of the money may be quashed.

SEC. XXV. *PROVIDED*, That if on return of such execution the debtor can prove the payment of the money for which such execution was levied, either to the assignee or original obligee, before notice of such assignment, (as the case may be) it shall and may be lawful for the court to quash such execution, or give such other judgment therein as to them shall seem right, and the person in whose name such execution issued, shall moreover be liable to the action of such debtor for damages. And for the better direction of such sheriff or other officer, the clerk shall endorse upon the back of such execution that "no security shall be taken." *Provided*, That nothing in this act contained, shall be construed to extend the right of giving security for payment of the money or tobacco mentioned in such execution at a future day, or to have the goods forthcoming at the day of sale, to the defendant or defendants, in any judgment or execution not exceeding the sum of five dollars; or to any execution against a sheriff, coroner, public collector, or other person legally authorized to receive any part of the public revenue or their securities; or to any execution against any such officer or his securities, for money received by him under an execution or other process; or for any money or tobacco collected or received by him or them in any manner as sheriffs or public collectors; nor to attorneys receiving the money of their clients; nor to securities under an act, intituled "An act to empower securities to recover damages in a summary way."

In what cases such bonds shall not be taken.

Separate bond for the surplus to be taken to the debtor.

SEC. XXVI. WHERESOEVER on a sale under execution upon twelve months credit, the amount of such sale shall exceed the principal, interest, and costs, the sheriff or coroner (as the case may be) shall take a separate bond, with sufficient security from the buyer or buyers, for the payment of such excess or surplus to the debtor with legal interest, at the end of twelve months from the date thereof, and it shall be expressed in the said bond, that it was given for a surplus or excess as aforesaid, and the said sheriff or coroner (as the case may be) shall deliver every bond so taken to the debtor, his agent, attorney, or other legal representative, or return it to the clerk's office; and it shall have the force of a judgment, be assignable, and in all things concerning the same, be proceeded on in like manner as is above prescribed in case of bonds given to a creditor. And if the sheriff or coroner (as the case may be) shall fail to deliver or return as aforesaid, any bond so taken, within thirty days from the date thereof, he shall be liable to the same penalty for every month of such failure, to be recovered in the same manner, as is directed by law against a sheriff or coroner failing to return an execution.

Commissioners to be appointed in each county to value property under execution and to judge of the sufficiency of securities.

SEC. XXVII. THE court of every county and corporation within this commonwealth, shall appoint nine persons to act as judges of the value of property, and the sufficiency of securities that may be offered under this act; and no sale under execution shall be made but in the presence of at least three of the said persons, except in the cases herein aftermentioned. *Provided always*, That in any case where the creditor, his agent, or attorney, shall be dissatisfied with the sufficiency of the security admitted by such valuers, it shall be lawful for such creditor to appeal to the next court to be held for the county or corporation, thereupon giving notice to the debtor or his attorney, and if such court shall be of opinion that the security so admitted was insufficient, the execution upon which such security was admitted, shall be deemed and taken as a lien upon the goods and chattels of such debtor, and shall not be discharged but upon payment of the debt and costs, or render of other sufficient security, satisfactory to the court; and moreover the bond and security given by such debtor, shall remain valid until such counter-security be given. There shall be paid by the creditor, his agent, attorney, or other representative, to each of the valuers appointed by virtue of this act, sixty-seven cents for each day's attendance at any sale, and no more, let the number of executions be what it may, which shall be taxed in the bill of costs where there is but one execution, and where there shall be more than one, in the bill of costs on each execution, proportioned to the amount thereof, and reimbursed to him accordingly; and such attendance shall not be taxed for more than three valuers in any case. And where any property shall be returned to the debtor, or sold on twelve months credit, under this act, such persons shall give the sheriff or other officer a certificate, that in their opinions, such property would not sell for three-fourths of its real value, and that the security taken was sufficient; and such certificate shall be returned by the sheriff with the execution, and shall be a full indemnification for him therein. Every person appointed by a court to judge of the value of property taken in execution, and of the sufficiency of securities offered agreeably to the directions of this act, shall before he proceeds to act under such appointment, take an oath before the court of the county or corporation, or a magistrate thereof, "That he will truly and impartially execute the trust reposed in him by this act."

Assignors of bonds given in pursuance of

SEC. XXVIII. WHERE any bond directed or permitted to be given by this act, shall be assigned, and execution issued thereon against the original obligor or obligors, and on such exe-

tion there shall be a return by the sheriff or other officer, that there were no goods, or not sufficient goods, of the obligor or obligors, to make the debt and costs, it shall be lawful for the clerk who issued such execution, to issue a second execution against the assignor or assignors of such bond, for the debt mentioned therein, or such part thereof as shall appear to be still due, on which execution there shall be similar proceedings to those on an execution against the original obligors.

this act, responsible, if the obligors are insufficient.

SEC. XXIX. WHERE any writ of *capias ad satisfaciendum* has been or shall be served on any debtor, it shall be lawful for such debtor to tender to the sheriff or other officer serving the same, slaves or personal property to the value of the debt and costs for which such execution has issued, or may hereafter issue, which property the said sheriff or other officer shall receive and proceed to sell in like manner as is herein directed in the case of goods taken in execution upon a writ of *fieri facias*, and shall thereupon discharge such debtor out of custody. *Provided always*, That if such property so tendered shall not be sufficient to satisfy the debt or damages, and costs, or shall be under any lien or incumbrance, so as that the whole cannot be sold, a new *capias ad satisfaciendum*, or *fieri facias*, at the option of the plaintiff, shall issue for any balance, and the clerk of the court from which such execution originally issued, shall, upon the return of the sheriff, of the insufficiency or incumbrance, as aforesaid, issue a new *capias ad satisfaciendum*, or *fieri facias*, if required. But where such property shall have been under any incumbrance, the debtor shall not be at liberty to tender slaves or personal estate on a second *capias ad satisfaciendum* being served, or in case of a *fieri facias* issued in consequence of such return, to avail himself of the privileges of this act.

Debtors in execution may tender goods to the officer.

SEC. XXX. NOTHING in this act contained, shall be construed to extend to any proceedings that may be had in consequence of any distress made, or to be made, for any rent reserved and due, or which may hereafter become due, upon any demise, lease or contract, whatsoever.

Nothing in this act to extend to distresses for rent.

SEC. XXXI. THE valuers shall be amenable to their respective county or corporation courts, and at the discretion of such courts, may be deprived of their office, for neglect of duty, or malfeasance therein; and upon the death, resignation or removal from office, of any such valuer, the vacancy shall be supplied by new appointment of the county or corporation court in which it shall happen.

Commissioners to be amenable to the county courts. Vacancies, how to be supplied.

SEC. XXXII. WHEN the sheriff shall, under any execution, have fixed the time and place for the sale of the property taken under such execution, he shall summon three of the commissioners appointed to value the property and ascertain the sufficiency of securities, to attend at the time and place of such sale; if only two of the said commissioners attend, they shall, after the hour of two o'clock, choose one of the bystanders to assist them in such valuation; if only one of the said commissioners shall attend, he shall at the same time, and in the same manner, choose one of the bystanders, and they shall, together, choose a third, to value such property as aforesaid; if neither of the said commissioners shall attend, the sale shall be postponed until another day, which shall not be longer than ten days, when the same proceedings shall be had as are directed to take place on the day first appointed for the sale. The sheriff shall administer the same oaths to the persons chosen by the commissioners, as are directed by this act, to be administered to the commissioners by the county or corporation courts. *Provided always*, That the said commissioners shall not be summoned upon any *fieri facias*, where the debt or damages and costs, shall not exceed thirty-three dollars, unless the defendant, his agent, attorney, or other legal representative shall require the same; and where the commissioners shall not be summoned, and the debt or damages shall not exceed the sum aforesaid, the sale shall proceed, and the sheriff or other officer possess and exercise the same power of valuation as the commissioners would have possessed and exercised, had they been summoned, but shall receive no reward for such valuation.

Commissioners to be summoned to attend sales.

Method of proceeding when they do not attend.

In what cases they shall not be summoned unless the defendants require it.

SEC. XXXIII. THE valuers shall make known in every case to any person requiring the same, before or at the sale, the valuation by them made of the goods or other estate taken in execution. The sheriff or coroner (as the case may be) shall be allowed for taking the bonds to the creditor, sixty-two cents and no more; for proceeding to sell, if the property be actually sold or the debt paid, the commission of five per centum on the first three hundred and thirty-three dollars, or ten thousand pounds of tobacco, and two per centum on all sums above that, and one half of such commission, where he shall have proceeded to sale, and the defendant shall have replevied; and no other commission, fee, or reward shall be allowed upon any execution, except for the expense of removing and keeping the property taken.

Valuation of property to be made known to any desiring it. Sheriffs fee for taking the bonds. Commissioners.

SEC. XXXIV. UPON actual sale of any property under this act, no principal debtor shall become the security.

No principal to be received as security.

SEC. XXXV. WHERESOEVER on a sale for cash or tobacco under any execution, the amount of such sale shall exceed the principal, interest and costs, the sheriff or other officer shall pay such excess or surplus to the debtor, his executors, administrators, or agent; and if any sheriff or other officer, shall fail or refuse to pay such surplus or excess when required, such sheriff or other officer, his or their security or securities, his or their executors or administrators, shall every and each of them be liable to the like penalty and judgment in favor of the said debtor, as is prescribed and directed by law in favor of the plaintiff against the sheriff for not paying the principal, interest, and costs levied on an execution.

Surplus money to be paid to the debtor.

Money levied by execution to be restored to the defendant obtaining an injunction to the judgment.

SEC. XXXVI. WHEN a sheriff or other officer under any execution, shall receive the whole or any part of the money or tobacco for which the said execution issued, and the person against whom such execution may have issued, his executors or administrators, shall obtain an injunction to such execution, or for any part of the money or tobacco mentioned therein, before the money or tobacco so received by such sheriff or officer is paid to the plaintiff, his agent or attorney, or his executors or administrators, in every such case the sheriff or other officer, his executors or administrators, shall repay to the person or persons against whom such execution issued, his or their executors, administrators, or agent, the money or tobacco so received, or such part thereof as may be enjoined; and if any sheriff or other officer, his or their executors or administrators, shall fail or refuse, when required, to pay such sum of money or tobacco so received and enjoined, to the person having a right to demand the same, such sheriff or other officer, and their securities, his or their executors and administrators, and every of them, shall be liable to the like penalty and judgment in favor of the person, his executors or administrators, by whom the said injunction is obtained, as is directed by law in favor of the plaintiff against the sheriff, for not paying money or tobacco, levied on an execution.

Where prisoners may have liberty of the rules.

SEC. XXXVII. IF any person or persons, taken or charged in execution, shall enter into bond with good and sufficient securities, under a reasonable penalty, upon condition that he or they shall not depart or go out of the rules or bounds of the prison to which he or they be committed, it shall be lawful for the sheriff or officer in whose custody such prisoner shall be, to permit him or them to go out of the prison and return at their pleasure.

Method of insolvent debtors discharge.

SEC. XXXVIII. AND for the relief of insolvent debtors, who shall be taken in execution, and to prevent the long imprisonment of unfortunate people, which can be no benefit, but rather a disadvantage to their creditors: *Be it further enacted*, That if any person shall hereafter be taken or charged in execution, in any suit commenced or prosecuted in any court of record within this commonwealth, it shall be lawful for any judge or justice of the said court, by warrant under his hand and seal, to command the jailor or keeper of the said prison, to bring before the said court, if sitting, or if not sitting, in case, be a superior court, before any two judges of the said court, at a certain time and place therein to be appointed, and if an inferior court, before any two justices of the said court, at their county courthouse, likewise on a certain day to be appointed in such warrant, the body or bodies of such person or persons so in prison as aforesaid, together with a list of the several executions with which he or she shall stand charged in the said jail: which warrant such jailor is hereby required to obey; and reasonable notice thereof shall be given to the party or parties, his or their executors, administrators, or agents, at whose suit such prisoner or prisoners shall be in execution: And every such prisoner, coming before the said court, judges, or justices (as the case shall be) shall subscribe and deliver in a schedule of his whole estate, and make oath and swear to the effect following, that is to say:

Prisoners oath.

"I, A. B. do, in the presence of Almighty God, solemnly swear, or affirm (as the case may be) that the schedule now delivered, and by me subscribed, doth contain to the best of my knowledge and remembrance, a full, just, true, and perfect account, and discovery, of all the estate, goods, and effects unto me any ways belonging, and such debts as are to me owing, or to any person in trust for me; and of all securities and contracts whereby any money may hereafter become payable, or any benefit or advantage accrue to me, or to my use, or to any other person or persons in trust for me; and that I, or any other person or persons in trust for me, have not land, money, stock, or any other estate, real or personal, in possession, reversion, or remainder, of the value of the debt or debts with which I am charged in execution; and that I have not directly or indirectly, sold, lessened, or otherwise disposed of in trust, or concealed all or any part of my lands, money, goods, stock, debts, securities, contracts, or estate, whereby to secure the same, or to receive or expect any profit or advantage therefrom, or to defraud or to deceive any creditor or creditors to whom I am indebted in anywise howsoever. So help me God."

Prisoners discharge.

SEC. XXXIX. WHICH schedule being so subscribed in open court, if taken in court, and if not, in the presence of two judges or justices, shall be returned to the clerk of the court, there to remain for the better information of the creditors; and after delivering in such schedule and taking such oath, such prisoner shall be discharged by warrant from such court, or from two judges or justices (as the case may be) which warrant shall be sufficient to indemnify such sheriff or officer against any escape or escapes, action or actions whatsoever, which shall or may be brought or prosecuted against him or them by reason thereof. And if any action should be commenced against any sheriff or officer for performing his duty, in pursuance of this act, he may plead the general issue, and give this act in evidence. *Provided always*, That notwithstanding such discharge, it shall be lawful for any creditor or creditors, by judgment at any time afterwards to sue out a writ of *scire facias* to have execution against any lands or tenements, goods or chattels, which such insolvent person shall thereafter acquire or be possessed of. But no person delivering in such schedule and having taken the said oath, shall again be imprisoned on account of any judgment which shall have been obtained against him, previous to the time of taking such oath, unless by virtue of a *capias ad satisfaciendum*, directed to issue by the court, in which the said judgment shall have been rendered.

But creditors may afterwards have executions against his estate.

No insolvent debtor to be imprisoned on account of any judgment obtained before he took the oath unless a *capias* be issued by order of the court.

SEC. XL. ALL the estate which shall be contained in such schedule, and any other estate which may be discovered to belong to the prisoner, for such interest therein as such prisoner hath and may lawfully depart withal, shall be vested in the sheriff of the county wherein such lands, tenements, goods or chattels shall lie or be found; and such sheriff is hereby authorized, empowered and required to sell and convey the same to any person or persons whatsoever, for the best price that can be got for the same, and the money arising from such sale shall be by such sheriff or officer paid to the creditor or creditors at whose suit such prisoner or prisoners shall be imprisoned, saving to every such prisoner his or her necessary apparel and utensils of trade.

Debtors estate,
how to be dis-
posed of.

SEC. XLI. WHEN any insolvent debtor shall be discharged, pursuant to this act, and the schedule subscribed and delivered in by such prisoner shall contain articles of money or tobacco due to such prisoner, or of goods, chattels or estates, belonging to him, and in the possession of any other, in that case the clerk of the court with whom such schedule is directed to remain, shall immediately issue a summons against each of the persons named as debtors in the said schedule, and against such others as are therein said to have possession of any goods, chattels, or estates of the property of the prisoner, reciting the sum of money or the quantity of tobacco he or she is charged with, or the particular goods, chattels or estates, said to be in his possession, and requiring him or her to appear at the next court, and to declare on oath whether the said money or tobacco, or any part thereof, be really due to such prisoner, or whether such goods, chattels or estates be really in his or her possession, and are the property of such prisoner; and if the person so summoned, shall fail to attend according to such summons, or to shew good cause for his non-attendance, it shall be lawful for the court to enter judgment against every such person for the money, tobacco, goods, chattels, or estates, in such schedule mentioned, together with costs of suit, a lawyer's fee excepted; and if any such person so summoned, shall appear and be sworn, judgment shall be entered for so much of the money, tobacco, goods, chattels, or estates, as he or she shall acknowledge to be due, or to be of the property of such prisoner, and in his possession, with costs as aforesaid; which judgment shall be entered in the name of the sheriff, who may thereupon proceed to levy the executions as in other cases, and to dispose of the money, tobacco, goods, chattels, or estates, so recovered, in the same manner as the estate contained in the schedule is hereby directed to be disposed of.

His debts and
effects, how to
be recovered.

SEC. XLII. *PROVIDED* always, That where any such garnishee shall not acknowledge the whole money or tobacco to be due, or all the goods, chattels, or estates, mentioned in the schedule to be of the property of the prisoner, and in his possession, the sheriff or such prisoner at any time after, unless barred by any of the acts limiting the time for the commencement of actions, shall be at liberty to claim the residue by legal process, and the former judgment as to such garnishee, shall be no further bar in such process, than for so much money or tobacco, or such goods, chattels, and estates, as the garnishee is thereby ordered to pay or deliver.

SEC. XLIII. EVERY sheriff shall be allowed to retain out of the effects of such insolvent debtor before the distribution thereof, all reasonable expenses in recovering such money, tobacco, goods, chattels and estates as aforesaid, including such a fee to a lawyer for the proceeding against the garnishee as shall be judged reasonable by the court; and if such effects be not sufficient, he shall be reimbursed such expenses by the creditor, or creditors if more than one, in proportion to their demands.

Sheriff to re-
tain his expen-
ces out of the
debtor's estate;

SEC. XLIV. WHERE such insolvent person shall not be able to satisfy and pay his ordinary prison fees, the sheriff or jailor may demand and receive of the party or parties at whose suit such insolvent person shall be imprisoned, all such fees as shall become due until such creditor shall agree to release such prisoner; and if the creditor upon notice given to him or her, his or her attorney or agent, shall refuse to give security to the sheriff or jailor, for the payment of such prison fees, or shall fail to pay the same when demanded, such sheriff or jailor shall discharge such debtor out of prison.

Insolvent debt-
or's prison fees
to be paid by
the creditor.
If he refuses,
the prisoner
shall be dis-
charged.

SEC. XLV. *PROVIDED* nevertheless, That such insolvent prisoner shall be afterwards liable to the action of the creditor, to recover such fees; and such creditor shall and may, notwithstanding his consent to the releasing such prisoner, at any time afterwards sue out a *scire facias* to have a new execution against the lands and tenements, goods and chattels, of such prisoner, in case he or she shall afterwards become possessed of any.

But the credi-
tor may after-
wards recover
such fees of the
debtor.

SEC. XLVI. WHEN any debtor is in custody on several executions, it shall not be lawful for such debtor to demand any more or other dieting, than if he was in custody on one execution only; nor shall any sheriff or jailor demand or receive more than the rate fixed by law, in case of a debtor confined on one execution only; which shall be paid by the creditor at whose suit such debtor was first taken.

The prison
fees to be paid
by the creditor
at whose suit
the debtor was
first taken.

SEC. XLVII. AN execution appearing to be duly served in other respects shall be deemed good, although it be not directed to any sheriff.

Execution du-
ly served, va-
lid although
not directed to
any sheriff.

SEC. XLVIII. IF a distringas issue in detinue, the court for good cause shewn, may direct it to be superseded, so far as it respects the specific thing, and to be executed for the alternative price or value only, if fixed in the judgment, or if the same shall afterwards be fixed by a writ of enquiry.

Distringas in
detinue may be
superseded as
to the specific
thing.

Sheriff liable
when a replevy
bond is qual-
ified as faulty.

Penalty on
sheriff for fail-
ing to return
an execution.

Method of pro-
ceeding against
a sheriff failing
to pay money
levied by exe-
cution.

Creditors to
appoint agents
in the counties
in which exe-
cutions are
served.

Executions
may be issued
on decrees in
chancery.

Goods on lease
not liable to
execution un-
til the rent is

SEC. XLIX. IF a replevy bond be qualified as faulty, the sheriff taking the same, shall be at all times liable for damages to the party injured, or his representatives.

SEC. L. AND whereas doubts have arisen in what manner judgment shall be rendered against any sheriff, coroner, or serjeant of a corporation, who shall fail to return an execution to the office from whence it issued, on or before the return day thereof: *Be it enacted*, that where any writ of execution or attachment for not performing a decree in chancery shall come into the possession of any sheriff, coroner, or serjeant of a corporation, and he shall fail to return the same, to the office from whence it issued on or before the return day thereof, it shall be lawful for the court, ten days previous notice being given upon the motion of the party injured, to fine such sheriff, coroner, or serjeant of a corporation, at their discretion, in any sum not exceeding five dollars per month for every hundred dollars contained in the judgment or decree on which the execution or attachment so by him detained was founded, and so in proportion for any greater or lesser sum, counting the aforesaid months from the return day of the execution or attachment, to the day of rendering judgment for the said fine.

SEC. LI. IF any sheriff, under sheriff, or other officer shall make return upon any writ of *fiat facias*, or *venditioni exponas*, that he hath levied the debt, damages or costs, as in such writ is required, or any part thereof, and shall not immediately pay the same to the party to whom the same is payable or his attorney, or shall return upon any writ of *capias ad satisfaciendum*, or attachment for not performing a decree in chancery for payment of any sum of money or tobacco, that he hath taken the body or bodies of the defendant or defendants, and hath the same ready to satisfy the money and tobacco in such writ mentioned, and shall have actually received such money or tobacco of the defendant or defendants, or have suffered him, her, or them to escape with the consent of such sheriff, under sheriff or officer, and shall not immediately pay such money or tobacco to the party to whom the same is payable, or his attorney, then, or in either of the said cases, it shall and may be lawful for the creditor, at whose suit such writ of *fiat facias*, *venditioni exponas*, *capias ad satisfaciendum*, or attachment shall issue, upon a motion made in the next succeeding general court, or other court from whence such writ shall issue, to demand judgment against such sheriff, officer, or under sheriff, or securities of such under sheriff, for the money or tobacco mentioned in such writ, or so much as shall be returned levied on such writs of *fiat facias*, or *venditioni exponas*, with interest thereon, at the rate of fifteen per centum per annum, from the return day of the execution, until the judgment shall be discharged. And such court is hereby authorized and required to give judgment accordingly, and to award execution thereon; provided such sheriff or officer have ten days previous notice of such motion.

SEC. LII. AND whereas it is unreasonable that sheriffs should be obliged to go out of their counties to give notice to creditors at whose suit any person may be in the custody of such sheriff, or to pay money levied by execution: *Be it further enacted*, that where any execution shall be delivered to the sheriff of any other county than that wherein the creditor resides, such creditor shall name some person in the county where the execution is to be levied, to be his, her or their agent, for the particular purpose of receiving the money on such execution, and for giving to and receiving from the sheriff any notices which may be necessary relating thereto; and payments made and notices given to such agent, shall be as effectual as if made or given to the creditor. And if any creditor shall fail to appoint such agent, no judgment shall be entered against the sheriff for non-payment of the money and tobacco mentioned in such execution, unless a demand thereof shall have been first made of such sheriff in his county by the creditor, or some other person having a written order from him. Nor in case of failure in appointing such agent, shall the sheriff or prisoner be obliged to give notice previous to the discharge of such prisoner, either for want of security for his prison fees, or upon his taking the oath of an insolvent debtor; but such prisoner shall be discharged in those cases respectively, without any notice to be given to the creditor so failing.

SEC. LIII. AFTER obtaining a final decree for lands, slaves, or money, or things of a specific nature, in any court having chancery jurisdiction, the clerk of such court shall, upon the request of the party obtaining such decree, issue any writ of execution, either a *fiat facias*, *capias ad satisfaciendum*, *habere facias possessionem*, or any judicial process which may now issue from any court of common law, according to the nature of the case, for carrying the said decree into effect; which writ shall issue in the name of the commonwealth, and bear teste and be signed by the clerk of the court; and all process so issued shall be executed and returned to the clerk's office from which the same issued from term to term on the return days thereof, by the officer or officers to whom the same shall be directed, and shall have the same operation, and possess the same force, to all intents and purposes, as similar process issued upon judgments at common law. The officer or officers to whom any such process is directed, shall be subject to the like penalties for misconduct or neglect, and the court shall exercise in this, and in all cases relating to such process, the same powers as if the said process had issued upon a judgment obtained at common law. But nothing herein contained shall prohibit any party from proceeding to carry any order or decree in chancery into execution, in any manner in which he might avail himself before the passing of this act.

SEC. LIV. NO goods or chattels whatsoever, lying or being in or upon any messuage, lands or tenements, which are or shall be leased for life or lives, term of years, at will, or otherwise, shall at any time hereafter, be liable to be taken by virtue of any writ of execution, or on any pretence whatsoever, unless the party so taking the same shall, before removal of the goods from off such premises, pay or tender to the landlord, or lessor thereof, or his agent, all

the money or tobacco due for the rent of the said premises at the time of taking such goods or chattels in execution. arrear is paid or tendered.

SEC. LV. *PROVIDED nevertheless*, That such rent arrear do not amount to more than one year's rent; and if more be due, then the party suing out such execution, paying or tendering to such landlord, or his agent, one year's rent, may proceed to execute his judgment; and the sheriff or officer serving the same, is hereby empowered and required to levy and pay to the plaintiff, as well the money or tobacco so paid for rent, as the execution money. Provido.

SEC. LVI. ALL acts or parts of acts coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been vested, or incurred, prior to the commencement of this act. Repealing clause.

SEC. LVII. THIS act shall commence and be in force from and after the passing thereof, until the first day of January, in the year of our Lord one thousand seven hundred and ninety-four. Commencement and duration of this act.

C H A P. VI.

An ACT reducing into one, the several Acts concerning the Fees of certain Officers, and declaring the mode of discharging the said Fees and County Levies.

[Passed December the 19th, 1792.]

SECTION I. **B**E it declared and enacted, by the General Assembly, That it shall and may be lawful for the clerk of the Council, the clerk of the House of Delegates, the register, the clerks of the General Court, High Court of Chancery, Court of Appeals, District Courts, clerks of Corporation Courts, and all county court clerks, sheriffs, coroners, constables, and surveyors, respectively, to demand, receive and take the several fees herein after mentioned and allowed, for any business by them respectively done, by virtue of their several offices, and no other fees whatsoever: That is to say— Fees to be received by

TO THE CLERK OF THE COUNCIL.

For every testimonial,

Dols. Cents. The clerk of the council,
1 67

TO THE CLERK OF THE HOUSE OF DELEGATES.

For a copy of an act of assembly, if contained in one sheet,
And for every sheet after the first,

1 0 The clerk of the House of Delegates,
0 75

TO THE REGISTER.

For issuing a warrant of survey, and recording the same,
For every warrant issued in exchange for another warrant, or where lands claimed under a former warrant, shall be recovered on a *caveat*, and recording the same,
For receiving a plat and certificate, and giving a receipt for the same,
For issuing and recording a grant thereupon, if the quantity therein contained exceed not four hundred acres,
For every hundred acres, exceeding that of four hundred,
For recording a plat and certificate of survey, if the quantity does not exceed four hundred acres,
For every hundred acres exceeding that quantity,
For entering a *caveat*, or for a copy thereof,
For a copy of any grant or patent of land,
For a search for any thing, or for reading the same, if a copy be not required,
For keeping a regular account of warrants, examined and cancelled, to be paid by the Treasurer, on the Auditor's warrant, for each warrant,

0 63 The register of the land-office,
0 63
0 10
1 26
0 10
0 42
0 10
0 42
0 63
0 21
0 6

TO THE SURVEYOR.

For every survey by him plainly bounded as the law directs, and for a plat of such survey, after the delivery of such plat, where the survey shall not exceed four hundred acres of land,
For every hundred acres contained in one survey above four hundred,
For surveying a lot in town,
And where a surveyor shall be stopped or hindered from finishing a survey by him begun, to be paid by the party who required the same to be surveyed,
For running a dividing line,
For surveying an acre of land for a mill,
For every survey of land formerly patented, and which shall be required to be surveyed, and for a plat thereof delivered as aforesaid, the same fee as for land not before surveyed,

Surveyors,
5 25
0 25
1 0
2 62
2 10
1 5

	Dols.	Cts.
And where a survey shall be made of any lands which are to be added to other lands, in an inclusive patent, the surveyor shall not be paid a second fee for the land first surveyed, but shall only receive what the survey of the additional land shall amount to.		
And where any surveys have been actually made of several parcels of land adjoining, and several plats delivered, if the party shall desire one inclusive plat thereof, the surveyor shall make out such plat for	1	5
For running a dividing line between any county or parish, to be paid by such respective counties or parishes, in proportion to the number of tithables, if ten miles or under,	10	50
And for every mile above ten,	0	30
For receiving a warrant of survey, and giving a receipt therefor,	0	17
For recording a certificate from the commissioners of any district of a claim to land allowed by them, to be paid by the claimant,	0	17
For making an entry for land, or for a copy thereof,	0	17
For a copy of a plat of land, or of a certificate of survey,	0	25

Assignees of surveys answerable for surveyor's fees where the assignor has not paid them.

SEC. II. *PROVIDED* always, That where any person shall employ a surveyor, and shall have received a plat of land surveyed, and afterwards shall assign the plat of land to any other, either before or after obtaining a patent for the same, if such person for whom the land was first surveyed, shall not have paid for the said survey, it shall and may be lawful for the sheriff or other officer of the county or corporation, where such assignee shall reside, at the instance of such surveyor, to make distress upon the slaves, goods and chattels of such assignee, in like manner as is herein after provided for surveyors or other officers fees refused or delayed to be paid.

TO THE CLERK OF THE COURT OF APPEALS.

	Dols.	Cts.
The same fees with those of the High Court of Chancery and General Court, for similar services.		

TO THE CLERK OF THE HIGH COURT OF CHANCERY.

The clerk of the High Court of Chancery,		
For filing a bill, answer, replication, or other pleadings, each		26
For a copy thereof, for every twenty words,		2
For entering every decree,		18
For drawing up every decree at large, entering the substance of the bill, answer and other pleadings, the substance of the evidence and the decree thereupon, for every twenty words,		2
For filing the depositions in every cause in behalf of each party,		26
For a copy of the depositions, for every twenty words,		2

TO THE CLERK OF THE GENERAL COURT.

The clerk of the General Court,		
For a copy of a warrant and inquisition of escheat,	1	92
Or of an inquisition of escheat,	0	83
For the probat of any testament and recording the same, for entering the orders for appraising the estate, recording the inventory, writing and sealing the <i>probat</i> , or any other matter concerning the same, or for a commission of administration of the goods of any person dying intestate, for entering the order or orders for appraising the estate, recording the inventory, or for any other matter concerning the same where the appraisement doth not amount to above three hundred dollars,	3	50
Or where the appraisement exceeds three hundred dollars, and is under fifteen hundred dollars,	5	0
Or where the appraisement exceeds fifteen hundred dollars, or there is no appraisement,	7	0
For a copy of a <i>probat</i> , or commission of administration,	0	70
For recording the memorial of each bargain, sale, mortgage, or other conveyance, marriage settlement, or deed of trust, there shall be paid by the person to whom the same shall be made,	0	18
For recording the certificate of a <i>probat</i> , or administration,	0	18
For a copy of a will, or inventory,	0	70
And if the original is contained in more sheets than one, for a copy of every such sheet,	0	52
For a copy of an account,	0	35
For recording of a deed or deeds for the conveying or settling any lands or tenements only, or together with slaves or personal estate, or any way concerning the same, acknowledged or proved in the general court,	2	62
For a copy of such deed or deeds, with the endorsements thereon, and for a certificate of the acknowledgment or proof, and recording,	1	57
For issuing a commission to take the acknowledgment and privy examination of a <i>feme covert</i> , and recording it with the return of the commissioners,	0	87
For a copy thereof,	0	52
For recording a deed concerning slaves, or any personal matter only,	1	22
For a copy thereof with a certificate of the acknowledgment or proof, and recording,	0	70

Dols. Cts.

Provided however, that for a deed of gift for slaves only, or for a copy thereof, there shall be allowed only	o	35
For recording a letter of attorney, acknowledged and proved in the General Court, and every thing relating thereto,	i	22
For a copy thereof,	o	70
For recording a bond with condition other than for performance of covenants in deeds of conveyance or settlement of lands,	o	70
For a copy of a bond with condition,	o	35

IN ACTIONS AND OTHER SUITS.

For every writ of error, <i>superfedeas</i> , or <i>scire facias</i> ,	o	43
For taking bond on issuing a writ of error or <i>superfedeas</i> ,	o	43
For every other writ in any action or suit whatsoever,	o	35
For entering the sheriff's return, and entering the bail by him returned in the rule book,	o	35
For entering special bail,	o	35
For entering the personal appearance of the plaintiff or defendant, or the appearance of an attorney for either party,	o	18
For entering security for costs for persons out of the country,	o	35
For filing a declaration, and every plea or demurrer in any cause to the making up of the issue, and for filing errors upon appeals, writs of error or <i>superfedeas</i> ,	o	35
For a copy of every declaration, plea or demurrer, or of errors,	o	35
For every rule entered in the rule book,	o	35
For a copy of every rule,	o	18
For every order in court before trial,	o	18
For a copy of the same,	o	18
For filing papers for each party in any action or suit,	o	26
For docketing every cause on the docket (to be charged but once)	o	18
For every trial, swearing the jury and witnesses, and recording a general verdict,	o	87
For administering an oath or affirmation in court, except witnesses to a jury,	o	18
For every trial where there is a special verdict, swearing the witnesses and jury, and recording such verdict,	i	30
And where there is no jury, but a case agreed,	o	43
For swearing witnesses for each party in every cause where there is no jury,	o	26
For a copy of a case agreed, or notes of a special verdict,	o	43
For entering every order made in court, after verdict, or demurrer joined,	o	18
For entering every continuance on the court docket,	o	18
For entering every judgment,	o	18
For making a complete record of every cause, inserting a case agreed or special verdict at large from the notes, and all deeds and other evidences at large, for every twenty words,	o	2
For a copy thereof or any part thereof, the same.		
For a recognizance in court,	o	35
For filing a return of a <i>habeas corpus</i> ,	o	26
For filing the record on a writ of error,	o	26
For a copy of such record for every twenty words,	o	2

TO THE CLERK OF THE GENERAL COURT OR HIGH COURT OF CHANCERY,

[as the case may be]

For taking a bond upon issuing injunctions,	o	43	The clerk of the General Court, or the High Court of Chancery.
For every <i>dedimus potestatem</i> ,	o	35	
For recording the report of auditors, when it is desired,	o	70	
For making a complete record of every cause, for every twenty words,	o	2	
For filing the return of a <i>certiorari</i> ,	o	26	
For taxing the costs in any action or suit, and a copy thereof,	o	35	
For recording any thing not herein particularly mentioned, or for a copy thereof, for every twenty words,	o	2	
For a search for any thing, if above a year's standing, or reading the same, or any part thereof, if required, if a copy be not taken,	o	18	
For every order to a witness for attendance, (to be charged to the party against whom the order goes)	o	18	

TO THE CLERKS OF THE DISTRICT COURTS.

For issuing a summons on a petition for lapsed-lands,	o	87	The clerks of the District Courts.
For every order thereon,	o	26	
In all other cases, the same fees with those of the county courts, for similar services; and for all other services the same as those of the clerk of the General Court.			

**TO THE CLERK OF A DISTRICT COURT, OR THE CLERK OF THE
HIGH COURT OF CHANCERY,**

[as the case may be]

		Dols.	Cts.
The clerks of the District Courts or the clerk of the High Court of Chancery.	For filing the record upon an appeal, or <i>superfedeas</i> from a county court, or any in- ferior court,	0	25
	For a copy of such record, for every twenty words,	0	2
TO THE CLERKS OF THE COUNTY AND CORPORATION COURTS.			
The clerks of the county and Corporation Courts.	For every writ in the nature of an <i>ad quod damnum</i> , (to be paid upon issuing such writ)	0	83
	For recording the same with the inquisition thereupon, (to be paid before inquisition recorded)	1	92
	For a copy of such writ and inquisition (to be paid down)	0	83
	For taking a bond upon issuing injunctions in chancery,	0	35
	For recording deeds of lease and release, for conveying or settling of lands only, or together with slaves and personal estate, bond to perform covenants, certificate of the proof or acknowledgment, as the case is, and all matters relating thereto,	2	62
	For a copy thereof,	0	95
	For recording every deed of feoffment, or bargain and sale, or other single deed for conveying or settling lands and tenements only, or together with slaves and person- al estate, bond to perform covenants, certificate of the proof or acknowledgment, as the case is, and all matters relating thereto,	1	75
	For a copy thereof,	0	70
	For issuing and recording a commission to take the acknowledgment and privy ex- amination of a <i>feme covert</i> , with the certificate of the commissioners, if such com- mission be required,	0	70
	For a copy thereof,	0	35
	For recording a patent,	0	87
	For a copy thereof,	0	43
	For recording a deed concerning slaves, or any personal matter or thing only, with certificate of its proof or acknowledgment,	0	70
	For a copy thereof,	0	52
	<i>Provided however</i> , that for a deed of <i>gift</i> for slaves only, or for a copy thereof, there shall be allowed only,	0	35
	For recording a letter of attorney,	0	52
	For a certificate of the proof or acknowledgement thereof,	0	18
	For a copy of a letter of attorney with such certificate,	0	43
	For recording a bond with condition, other than for performance of covenants in deeds of conveyance, or settlement of lands,	0	35
	For a copy of a bond, with condition, other than an appeal bond, the same.	0	18
	For a copy of any other obligation or promissory note,	0	18
	For the probaton of any will or testament, and recording the same, entering the or- der or orders for appraising the estate, and for any other matter concerning the same, where the will shall be contained in one sheet,	0	70
	And if the will is contained in more than one sheet, for every such sheet,	0	35
	For a commission of administration of the goods of any person dying intestate, for entering the order or orders for appraisement, and for any other matters concern- ing the same,	0	70
	For recording an inventory, where the appraisement doth not amount to more than thirty dollars,	0	18
	Where the appraisement exceeds that value, and is under one hundred and fifty dollars,	0	87
	And where it shall exceed one hundred and fifty dollars, and is under three hundred dollars,	1	75
	And where it shall exceed three hundred dollars, or there is no appraisement,	4	37
	For a copy of a will or inventory, if the original is contained in one sheet,	0	52
	If the original is contained in more sheets than one, for a copy of every such sheet besides the first,	0	35
	For recording the age of a servant or slave, adjudged in court,	0	18
	For a certificate thereof if required,	0	14
	For attending a court for examination of criminals and trial of slaves, if the court is held for that purpose (to be paid by the public)	3	50
	For a copy of a list of tithables, in his precinct,	0	35
	For the whole fee for an ordinary license and bond,	0	87
	For a copy of the rates of liquors,	0	26
	For a marriage license, certificate, and bond,	0	87
	For every search for any thing above a year's standing if a copy be not taken,	0	8
	For reading any thing, if a copy be not required,	0	8

IN ACTIONS AND OTHER SUITS.

For every writ, other than such as are herein particularly mentioned,	0	18
For a copy of such writ,	0	8
For every writ of execution, or <i>scire facias</i> ,	0	26

	Dols.	Cts.
For a copy thereof,	0	14
For recording the return thereof,	0	14
For a writ of attachment, in any action;	0	26
For recording the return thereof,	0	26
For an attachment granted by a justice of the peace, returnable to the court, and recording the return and putting the same on the docket,	0	35
For every summons to summon a garnishee on such attachment,	0	18
For filing every bail bond, or entering the bail returned,	0	18
For docketing every cause, except by petition (to be charged but once)	0	8
For a copy of the return of any writ,	0	5
For entering special bail,	0	18
For entering security for costs for persons out of the country,	0	18
For entering the appearance of the defendant or defendants, where there is no attorney, in any suit, except by petition,	0	8
For entering one or more attorneys for each party,	0	8
For every petition, declaration, or other pleadings, except in suits by petition for debt, <i>detinue</i> , <i>assumpsit</i> , or <i>trover</i> ,	0	18
For a copy of any declaration, special plea, or demurrer,	0	18
For a copy of a plea, if the general issue,	0	5
For every trial, swearing the jury and witnesses, filing all papers, and recording a general verdict,	0	70
For every trial where there is a special verdict, or case agreed, and recording the same,	1	13
For swearing the witnesses in every other cause, where there is no jury or case agreed, except by petition,	0	18
For filing the papers of each party in every cause, except by petition, and where there is a jury or case agreed,	0	18
For a copy of a special verdict, or case agreed, and every thing therein set forth, or for making up a full and complete record, for every thirty words,	0	2
For entering every judgment, or for a copy thereof,	0	18
For filing a bill, answer, replication, and other pleadings in chancery, for each,	0	18
For a copy thereof, for every thirty words,	0	2
For a commission to examine witnesses,	0	43
For attending and writing depositions taken against inspectors before justices of the peace,	1	75
For entering every decree in chancery,	0	26
For filing the depositions in any suit, for each party,	0	8
For every deposition taken in court,	0	18
For a copy of a deposition,	0	18
For administering an oath in court, not relating to the trial of any cause there depending, and certifying the same,	0	18
For every recognizance in court,	0	18
For entering the order or orders in any cause in one court,	0	26
For entering every order for attendance of witnesses,	0	18
For a copy of any order,	0	18
For recording the report of a jury in the county, surveyor, auditor or viewers,	0	35
For a copy thereof,	0	35
For taxing costs to any judgment or decree, where costs are recovered, or for a copy of a bill of costs, if required,	0	20
For a copy of an account,	0	18
For entering an appeal, and taking bond to prosecute it,	0	35
For a copy of the bond,	0	18
For returning an appeal and security to the office of the Court of Chancery, or a District Court, (as the case may be)	0	52
For returning a writ of <i>error</i> , <i>superfedeas</i> , <i>certiorari</i> , or <i>habeas corpus</i> ,	0	35
For a copy of the proceedings of the cause, wherein the appeal is granted, for every thirty words,	0	2
For recording the acknowledgment of satisfaction of a judgment,	0	18
For entering each order for a witness's attendance, (to be charged to the party in whose behalf the witness is summoned, and taxed in the bill of costs, if such party recover,	0	18
For a copy thereof, to be taxed and charged in like manner,	0	18
For an attachment thereon, to be charged to the party against whom the attachment shall be issued,	0	18
For the whole fee chargeable for every petition for debt, <i>detinue</i> , <i>assumpsit</i> or <i>trover</i> , and all the proceedings therein, including a copy of the judgment, and taxing costs, if required, except the respective fees for summoning witnesses, entering attorneys, for every order for continuance, and for issuing execution, where any of those matters happen,	0	87
For entering an attorney in such petitions, to be paid by the party by whom such attorney shall be employed, and not to be taxed in the bill of costs,	0	8
For a summons for several witnesses living in one county, if summonses for all be taken out at one time,	0	18

For recording any thing not herein particularly mentioned, or for a copy thereof, for every thirty words,	Dols. Cts.
	0 2
For the acknowledgment and proof of any deed in the county court, and for certifying the same to be recorded in the General Court,	0 52

WHICH said several fees shall be charged to the party at whose instance the business shall be performed, except where it is otherwise directed.

The commissioners of the High Court of Chancery.

SEC. III. THE commissioner or commissioners of the High Court of Chancery may issue their tickets for the sums allowed by the said court, for services performed by them under the orders of the said court, and deliver them to the respective sheriffs, at the same time the clerk of the said court is directed by law to deliver his tickets; and the several sheriffs shall collect and account for them in the same manner, and under the like penalties, and shall have the same allowance for collecting and for insolvencies, as are prescribed in the case of the clerk of the said High Court of Chancery.

Rules in taxing costs.

SEC. IV. IF any plaintiff or defendant, or his, or her attorney, shall take out copies of his or her own declaration or pleadings, or of his or her own papers in any cause, or of any common order made in such cause, the charge of such copies shall not be allowed in the bill of costs, although such party recover; and where more attorneys than one shall be employed in any cause on one side, if such attorneys take out more than one copy of any thing necessarily relating to the suit, yet no more than one copy shall be allowed in the bill of costs; neither shall the clerk tax any fee in the bill of costs for entering more than one attorney, although costs shall be adjudged against the adverse party.

FOR all public services of the clerk, viz. entering and issuing copies of orders for appointing surveyors of highways, appointing constables, grand juries, taking a list of tithables, entering guardians accounts, and all matters relating thereto; binding out poor orphans, and appointing guardians, entering the levy and copies thereof, and of the list of tithables for the collector, and for entering and issuing the orders, except against guardians, where they shall stand out in contempt (to be charged to such guardian) and issuing the orders for recommending sheriffs and justices, and for processioning, and all other public services for which no particular fee is allowed (to be levied annually by the justices of the county)	Dols. Cts.
	25 0

In suits or motions against public debtors.

SEC. V. AND where a motion or suit shall be instituted against any person or persons for money due to the public, in the name of, or by the person authorised by law so to do, and judgment shall be recovered against him, her, or them, the clerk of the court wherein such motion or suit shall be instituted, shall and is hereby required to charge all the fees accruing thereon, to the person or persons against whom such judgment shall be obtained.

In what cases county court clerks may charge fees for making up complete records. Fee bills to be produced.

SEC. VI. NO county court clerk shall charge any fee for making up a complete record unless it be in causes where the title or bounds of lands are determined, or where he is to transmit the transcript of the record of any cause to the office of a superior court upon appeals, writs of error, *superfedeas*, *habeas corpus*, or *certiorari*.

SEC. VII. AND to the end all persons chargeable with any of the fees aforesaid, may certainly know for what the same are charged, *Be it further enacted*, That none of the fees herein before mentioned, shall be payable by any person whatsoever, until there shall be produced, or ready to be produced unto the person owing or chargeable with the same, a bill or account in writing containing the particulars of such fees, signed by the clerk or officer to whom such fees shall be due, or by whom the same shall be chargeable respectively; in which said bill or account, shall be expressed in words at length, and in the same manner as the fees aforesaid are allowed by this act, every fee for which any money or tobacco is or shall be demanded.

TO THE SHERIFF OR SERJEANT,
(as the case may be)

Sheriff's fees.		Dols. Cts.
For an arrest, bond, and return,		0 63
For returning a <i>capias</i> , <i>non est inventus</i> ,		0 21
For serving a <i>scire facias</i> ,		0 30
For serving any person with an order of court, and making return thereof,		0 30
For pillorying any person,		0 42
For putting into the stocks,		0 21
For ducking any person,		0 42
For putting in prison and releasement,		0 42
For serving a <i>subpoena</i> in chancery,		0 30
For serving a summons upon a petition for debt, <i>detinue</i> , <i>assumpsit</i> , or <i>trover</i> ,		0 30
For serving a <i>subpoena</i> for a witness in any cause in court, except summoned in court,		0 21
For summoning an appraiser, auditor, viewer, or witness to any deed, will, or writing, if required to be summoned, but not else,		0 21
For summoning and impannelling a jury, in every cause wherein a jury shall be sworn,	I	5
For coming to and attending the district court with the <i>venire</i> , and return of the <i>venire facias</i> , the same as is allowed to a <i>venire</i> man, (to be paid by the public) and for attending the district with stolen goods where there is no <i>venire</i> , the same,		

	Dols.	Cts.
For summoning the justices of the county and attending a court for the examination of a criminal (to be paid by the public)	4	20
For removing of every criminal from the county jail to a district jail, for every mile,	0	10
For removing a debtor by <i>habeas corpus</i> from the county jail to a district jail, for every mile,	0	4
For executing every condemned person, and all fees incident (to be paid as aforesaid)	5	25
For summoning a jury upon any inquisition, survey, writ of dower, or partition, if the jury appear,	3	15
And if the jury do not appear,	1	57
For making a return of a writ of dower, partition, or in the nature of an <i>ad quod damnum</i> ,	1	5
For every day's attendance upon a jury in the county after they are sworn, or attendance upon a surveyor, when ordered by the court,	1	5
For serving a writ of <i>habere facias seisinam</i> , or <i>habere facias possessionem</i> ,	1	5
For serving an attachment upon the body,	0	63
For serving a writ of <i>distingas</i> issuing from a judgment in <i>detinue</i> when the specific thing shall be taken,	1	5
For serving a declaration in ejectment, if against one tenant,	0	63
And if against more tenants than one, for serving the declaration on every other tenant,	0	30
For whipping a servant, to be paid by the owner, and repaid by the servant,	0	42
For whipping a free person by order of court (to be paid by such person) the same.		
For whipping a slave by order of court, to be paid by the county, and repaid by the public,	0	42
For taking a bond or bonds to the creditor under the act, intituled, "An act for reducing into one, the several acts concerning executions, and for the relief of insolvent debtors,"	0	63
For proceeding to sell on any execution on behalf of the commonwealth, or of any individual, if the property be actually sold, or the debt paid, the commission of five <i>per centum</i> on the first three hundred dollars or ten thousand pounds of tobacco, and two <i>per centum</i> on all sums above that, and one half of such commission where he shall have proceeded to sale, and the defendant shall have replevied, and no other commission, fee, or reward, shall be allowed upon any execution, except for the expense of removing and keeping the property taken.		
For serving an attachment, or for making distress upon the goods exceeding ten dollars, if sold, the same fee as for serving an execution, where the goods do not exceed that value, or are not sold,	0	63
For every garnishee summoned on such attachment,	0	21
For executing any writ of <i>distingas</i> or attachment on a decree in chancery, the same fee or commissions upon the amount of the value of the goods and chattels recovered, or money mentioned in such decree as is by law allowed for serving any other execution.		
For serving and returning a General or District Court writ, summons or order where the same is not comprehended in any of the foregoing articles,	0	63
For making a proclamation as the law directs, in proving of wills or proceeding to outlawry,	0	42
For selling a servant at public outcry by order of court, and all fees incident,	0	42
For keeping and providing for a debtor in jail, each day,	0	21
For serving a justice's warrant,	0	21
For summoning a witness before a justice,	0	10
For all public services of the sheriff, to wit, attending the courts of claims, impanelling grand juries, publishing writs for electing delegates or senators, and attendance; serving all public orders of court (except against guardians where they shall stand out in contempt, to be charged to such guardian) and all other public and county services (to be levied annually by the justices on the county)	25	0

SEC. VIII. AND when any person or persons presented by the grand jury, or prosecuted by the overseers of the poor, shall be discharged of such presentment or prosecution, the clerk, attorney for the commonwealth, and sheriff, shall be entitled to no fees for the same, but it shall be deemed to be included in the public services; but if the party or parties so presented or prosecuted shall be convicted, then in such case the clerk shall tax all such fees against such party or parties.

No fees to be charged to the defendants in presentments, if acquitted.

TO THE CORONER.

	Dols.	Cts.
For taking an inquisition on a dead body, (to be paid out of the estate of the deceased) if the same be sufficient, if not by the county,	2	80
For all other business done by him, the same fees as are allowed the sheriff for the same services.		

Coroner's fees.

TO THE CONSTABLE.

	Dols.	Cts.
For serving a warrant,	0	21
For summoning a witness,	0	10

Constable's fees.

For summoning a coroner's jury and witnesses,	1	5
For putting into the stocks,	0	21
For whipping a servant (to be paid by the owner, and repaid by the servant)	0	21
For serving an execution or attachment, returnable before a justice,	0	21
For serving an attachment, returnable to the county court, against the estate of a debtor removing his effects out of the county,	0	63
For whipping a slave (to be paid by the overseer, if the slave is under an overseer, if not, by the master)	0	21
For removing any person suspected to become chargeable to the county, (to be paid by the overseers of the poor) for every mile,	0	4
The same for returning.		

Tables of fees
to be set up.

SEC. IX. THE clerks of the General Court, High Court of Chancery, Court of Appeals, and District Courts, shall cause to be set up in some public place in their offices, and there constantly kept, a fair table of their fees herein before mentioned, on pain of forfeiting forty dollars, for every court day the same shall be missing through their neglect; and the clerk of every county and corporation court, shall in like manner set up a fair table of all other fees, herein before mentioned, in the courthouse of his county, to be there constantly kept, on pain of forfeiting twenty dollars, for every court day, the same, shall be missing through his neglect; and the surveyor of every county shall also cause to be set up in some public place, in his office, and there constantly kept, a fair table of his fees, herein before mentioned, on pain of forfeiting three hundred dollars. All which penalties shall be to the person or persons, who shall inform or sue for the same, and shall and may be recovered in any court of record within this commonwealth, by action of debt or information.

Penalty for over charging.

SEC. X. IF any officer hereafter shall claim, charge, demand, exact, or take any more, or greater fees for any writing, or other business by him done, within the purview of this act, than herein before set down and ascertained, or if any officer whatever shall charge or demand and take any of the fees herein before mentioned, where the business for which such fees are chargeable, shall not have been actually done and performed (to be proved by the fee book of such officer, upon his corporal oath) such officer for every such offence shall forfeit and pay to the party injured, besides such fee or fees, six dollars for every particular article or fee so unjustly charged or demanded or taken; to be recovered with costs, in any court of record in this commonwealth, by action of debt or information: *Provided* the same be sued for within twelve months after the offence shall be committed.

Surveyors and clerks of district and county courts to deliver accounts of fees to the sheriffs.

SEC. XI. AND for the better collecting the said fees, *Be it enacted*, that the surveyor of every county shall, annually, before the twentieth day of January, and the clerk of every district, county and corporation court, respectively, shall, annually, before the first day of March, deliver or cause to be delivered, to the sheriff of every county in this state, and to the serjeant of every corporation, respectively, their accounts of fees due from any person or persons residing therein, which shall be signed by the clerks or surveyors respectively.

Their duty in collecting them.

SEC. XII. AND the said sheriffs and serjeants are hereby required and empowered to receive such accounts, and to collect, levy and receive the several sums of money therein charged of the persons chargeable therewith; and if such person or persons, after the said fees shall be demanded, shall refuse or delay to pay the same, till after the tenth day of April, in every year, the sheriff of that county, or serjeant of that corporation wherein such person resides, or of the county in which such fees became due, shall have full power, and are hereby required, to make distress of the slaves, or goods and chattels of the party so refusing or delaying payment, either in that county or corporation where such person inhabits, or where the same fees became due. And the sheriff of any county, or serjeant of a corporation, for all fees which shall remain due and unpaid after the said tenth day of April in any year, either to themselves or the sheriffs or serjeants of another county or corporation, which shall be put into his hands to collect as aforesaid, is hereby authorized and empowered, to make distress and sale of the goods and chattels of the party refusing or delaying payment, in the same manner as for other fees due to any of the officers herein before mentioned; but no action, suit, petition or warrant from a justice, shall be had or maintained for clerks, or surveyors fees, unless the sheriff or serjeant shall return, that the person owing or chargeable with such fees hath not sufficient within his bailiwick whereon to make distress, except where the clerk, or other officer, as aforesaid, shall have lost his fee book by fire or other misfortune, so that he be hindered from putting his fees into the sheriff's hands to collect; and in that case any suit or warrant may be had and maintained for the recovery thereof. And if any sheriff shall be sued for any thing by him done in pursuance of this act, he may plead the general issue, and give this act in evidence.

No action to be brought for fees where distress can be made.

When the sheriffs are to account for them.

SEC. XIII. EVERY sheriff of every county, and every serjeant of every corporation, shall, on or before the last day of May, in every year, account with the clerks of the respective district, county and corporation courts, and the respective surveyors, for all fees put into his hands pursuant to this act, and pay the same, abating six per centum for collecting. And if any sheriff or serjeant shall refuse to account or pay the whole amount of fees put into his hands, after the deductions aforesaid made, together with an allowance of what is charged to persons not dwelling, or having no visible estate, in his county, it shall and may be lawful for the clerks or surveyors, their executors or administrators, upon a motion made in the next succeeding district court, or in the court of the county of such sheriff, or in the court of the corporation of such serjeant, to demand judgment against such sheriff or serjeant, for all fees wherewith he

Remedy against them in case of refusal.

shall be chargeable by virtue of this act; and such court is hereby authorized and required to give judgment accordingly, and to award execution thereupon; provided the sheriff have ten days previous notice of such motion.

SEC. XIV. THE clerks of the court of appeals, high court of chancery, and general court, shall deliver their tickets to the respective sheriffs and serjeants; annually before the first day of May, and the sheriffs and serjeants shall receive and collect the same, and shall distrain and make sale of the debtor's slaves, goods or chattels, for all such tickets as shall remain unpaid after the first day of July, in any year; and if the said sheriffs or serjeants shall fail to pay the said fees to the respective clerks at their offices in Richmond, or such town or place as the treasury may be kept at, by the fifteenth day of September, annually, abating ten per centum for collecting, and making an allowance for insolvencies and non-residents, having no estates within their counties, which shall be accounted for on oath; the said clerks or either of them, their executors or administrators, upon motion made in the court of the district, county or corporation, in which the sheriff or serjeant failing to make payment as aforesaid, may be found, may demand judgment against him for all fees, wherewith he shall be chargeable by this act, and such court respectively shall enter judgment accordingly; provided the sheriff have ten days notice of such motion; and judgment may be obtained as aforesaid against any under sheriff, who may fail to add the name of his principal to the receipt for such fees.

Clerks of the Court of Appeals of the High Court of Chancery and General Court to deliver accounts of fees to sheriffs. Remedy against them for failing to account for them

SEC. XV. The executors or administrators of any such sheriff, under sheriff, or serjeant, shall be liable to judgment as aforesaid, for the fees received, to be collected by their testator or intestate, and accounted for. Every receipt for fees produced in evidence on any such motion, shall be deemed to be the act of the person subscribing it, unless he shall deny the same upon oath.

Sheriff's receipt to be deemed his act unless denied upon oath.

SEC. XVI. THE clerks of the said courts, their executors or administrators, may obtain judgments as aforesaid, for all balances now due to them from any sheriff, under sheriff, or serjeant, on account of fees heretofore put into their hands to be collected.

THE judges of the superior courts (except the general court) shall make such allowances from time to time to their respective officers as they shall think reasonable; taking into account the time past for which no allowance hath been made by the assembly; which allowances when made and audited, shall be paid by the treasurer out of any public money in his hands.

Superior courts to make allowances to their officers.

SEC. XVII. ALL acts or parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements which have accrued, been vested, or incurred prior to the commencement of this act.

Former acts repealed; proviso.

SEC. XVIII. THIS act shall commence and be in force from and after the passing thereof.

Commencement of the act

C H A P. VII.

An ACT giving further Time to the Owners of Surveys to return the Plats and Certificates thereof into the Land-Office.

[Passed November the 15th, 1792.]

SECTION I. **W**HEREAS it hath been represented that the time allowed by the act of the last session for the owners of surveys to return their plats and certificates into the land-office, will not be sufficient to comply with the purposes thereof, and it is expedient to extend such time: *Be it therefore enacted, by the General Assembly*, That the further time of one year and five months, to be computed from the month of July next, shall be allowed to the owners of surveys on the western waters, and the further time of twelve months from the passing of this act, shall be allowed the owners of surveys on the eastern waters, for returning all plats and certificates of surveys to the register of the land-office, who shall receive the same. Any law to the contrary notwithstanding.

Preamble. Surveys on the Western waters when to be returned. When on the Eastern waters

SEC. II. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this act

C H A P. VIII.

An ACT giving further Time to the Owners of Entries on the Western Waters, to survey the same.

[Passed October the 12th, 1792.]

WHEREAS the time limited by law for the owners of entries on the western waters to survey the same, will expire during the present session of assembly, and it is expedient that a further time should be allowed such owners to comply with the requisitions of the acts

Preamble.

Entries on the Western waters, within what time to be surveyed.

of assembly, in such case made: *Be it therefore enacted, by the General Assembly, That the further time of two years, shall be allowed to the owners of entries on the Western waters, to survey the same, in such manner as is directed by law. Any thing to the contrary hereof notwithstanding.*

C H A P. IX.

An ACT declaring what remedy the Commonwealth shall have in certain cases

[Passed December the 25th, 1792.]

Actions on the case may be brought against public debtors for recovery of money, &c. due to the commonwealth, In the name of the governor.

SECTION I. *BE it enacted,* That whensoever any person or persons heretofore have, or hereafter may receive, any sum or sums of money or tobacco, or any kind of public securities whatsoever, which of right do or shall appertain to this commonwealth, and such person or persons shall refuse or neglect to pay such money, tobacco, or public securities, or any part thereof, to such officer of this commonwealth, to whom by law the same ought to be paid; then and in that case it shall and may be lawful for the Governor, with the advice of the Council of state, to institute an action upon the case against such person or persons, their executors or administrators, for money, tobacco, or public securities (as the case may be) had and received to the use of the commonwealth; which action shall be instituted in the name of the Governor for the time being, and his successors, for the use of the commonwealth, and shall not abate by the death, resignation, or removal from office of the Governor, in whose name it shall be brought.

No official bond to be pleaded in abatement or bar thereof. Commencement of this act

SEC. II. WHERE such suit shall be brought against any public officer, such officer shall not be permitted to plead any official bond, or any condition or covenant therein, either in abatement or bar thereof.

SEC. III. THIS act shall commence and be in force from and after the passing thereof.

H H A P. X.

An ACT for ascertaining the Salaries to the Officers of civil Government.

[Passed November the 22d, 1792.]

Salaries payable quarterly to the officers of government.

SECTION I. *BE it enacted,* That the several officers herein-after mentioned, shall receive for their salaries in quarterly payments, after the same shall have been audited, according to law: The Governor or chief magistrate, the sum of two thousand six hundred and sixty-seven dollars. The members of the Privy Council, the sum of six thousand six hundred and sixty-seven dollars, to be divided amongst them according to their attendance. The judges of the Court of Appeals, the judge of the High Court of Chancery, and the judges of the General Court, each, the sum of one thousand dollars. The Attorney-General, the sum of six hundred and sixty-seven dollars *per annum*, and to each of his deputies in the District Courts, seventy-five dollars *per annum*. The Auditor of public accounts, the sum of one thousand dollars *per annum*. The Speaker of the Senate, the sum of three dollars and thirty four cents *per day*, during each session of assembly, including his daily pay. The Speaker of the House of Delegates, the sum of six dollars and sixty-seven cents *per day*, in like manner. The clerk of the General Court, for his *ex officio* services, the sum of one hundred dollars *per annum*. The Register of the land-office and his clerks, the sum of one thousand three hundred and thirty-three dollars *per annum*. The Treasurer, the sum of sixteen hundred and sixty-seven dollars *per annum*. The first clerk of the Council, Treasury, and Auditor, the sum of five hundred dollars *per annum* each, and each of the other clerks of the Council, Treasury, and Auditor, the sum of three hundred and thirty-four dollars *per annum*. And the keeper of the public jail, the sum of eighty-four dollars *per annum*. All those several sums shall be paid in specie; and the Auditor is hereby authorized to audit the same, and issue his warrants upon the treasury accordingly.

Repealing clause. Proviso.

SEC. II. ALL and every act and acts, clauses and parts of acts heretofore made, containing any thing within the purview of this act, shall be, and the same are hereby repealed. *Provided always,* That nothing in this act contained, shall be construed to affect any right which shall have accrued prior to the commencement of this act.

Commencement of this act

SEC. III. THIS act shall commence in force from and after the first day of January next.

An ACT for reducing into one Act, the several Acts concerning the Court of Appeals and Special Court of Appeals.

[Passed October the 26th, 1792.]

SECTION I. **B**E it enacted by the General Assembly, That the Court of Appeals shall consist of five judges, to be chosen and commissioned in the manner directed by the constitution of this commonwealth. Any three of the said judges shall constitute a court. The said court shall be holden at the capitol, in the city of Richmond, or at such other place as shall be appointed by the General Assembly, or in their recess, by the Governor, with the advice of the Council of State, on any such emergency, as will make the adjournment lawful. The said court shall be holden twice in every year, namely, on the tenth day of April, and the tenth day of October, or when that shall happen to be Sunday, on the succeeding day, and shall sit each time, until the business depending before them shall be dispatched. Every judge before he exercises his office, shall in open court give assurance of fidelity to the commonwealth, and take this oath—"You shall swear that you will well and truly serve this commonwealth in the office of a judge of the Court of Appeals, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, without respect of persons. You shall not take by yourself or by any other, any gift, fee, or reward of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done or to be done, by virtue of your office, except such fees or salary, as shall be by law appointed. You shall not maintain by yourself or by any other, privily or openly, any plea or quarrel depending in the courts of this commonwealth. You shall not delay any person of right for the letters or request of any person, nor for any other cause; and if any letter or request come to you contrary to the law, you shall nothing do for such letter or request, but you shall proceed to do the law, any such letter or request notwithstanding. And finally in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial justice, without fraud, favor or affection. So help you GOD."

Court of Appeals to consist of five judges. Any three to constitute a court. Where to be holden. Terms.

Oaths to be taken by the judges.

SEC. II. THE said court shall have jurisdiction not only in the cases provided for by the constitution of this commonwealth, and in suits originating there, or adjourned thither for trial by virtue of any statute, which trial shall be by juries according to the course of law, but also in such as are now pending therein, or shall be brought before them by appeals, writs of error, or *superfedeas*, to reverse decrees of the High Court of Chancery, or judgments of the General Court, or District Courts of this commonwealth, after those decisions shall be final there, if the matter in controversy be equal in value, exclusive of costs, to one hundred dollars, if the judgment sought to be reversed, shall be rendered in the District Courts, or one hundred and fifty dollars, if in the General Court or High Court of Chancery, or be a freehold or franchise; and in all other cases therein depending at the commencement of this act.

Jurisdiction of the court.

SEC. III. IF a sufficient number of judges to constitute a court shall not attend on the first day of any term of the Court of Appeals, it shall be lawful for any one judge thereof to adjourn the court from day to day, for four days successively, or until a sufficient number shall attend, and if that shall not happen before four of the clock on the fourth day, then the court shall stand adjourned, and all suits depending therein continued to the next court. And if during any session after a court shall have been constituted, three judges shall not attend to make a court, there shall be no discontinuance of the term, but the court shall stand adjourned from day to day, till a sufficient number shall attend; provided that shall happen in four days, and if it does not, then the term and suits shall stand adjourned to the next court, as before directed.

Regulations respecting the adjournment of the court when the judges do not attend.

SEC. IV. ALTHOUGH one or more of the judges of the Court of Appeals be interested in the event of any suit, matter or thing depending therein, the same shall be finally decided by the other judges, if there be a number of judges not so interested sufficient to constitute a court.

The court to determine causes in which one or more of the judges may be interested if there remains a sufficient number to make a court. Special Courts of Appeals to be held for the trial of suits in which a majority of the judges of the Court of Appeals are interested.

SEC. V. IF on an appeal from the High Court of Chancery, or on any question concerning any decree or order made therein, or process to be directed thereto, a majority of, or all the judges of the Court of Appeals be interested, then in the former case the remaining judges of the Court of Appeals not so interested, and as many of the judges of the General Court, as will make the number at least five; and in the latter case so many of the judges of the General Court not so interested, as will make the number five at least, shall constitute a Special Court for the trial of such appeal or question. If on an appeal, writ of error, or *superfedeas* to or from any judgment or order made in the General Court, or any question concerning the same, or any process to be directed thereto, a majority or all of the judges of the Court of Appeals be interested therein, then in the former case the remaining judges of the Court of Appeals, not being so interested together with the judge of the High Court of Chancery, and as many of the judges of the General Court, not being so interested, as will make the number five at least, shall constitute a like court for the purpose aforesaid. If on an appeal, writ of error, or *superfedeas*, to or from any judgment or order made in a District Court, or any question concerning the same, or concerning any process to be directed thereto, a majority or all the judges of the Court of Appeals be interested, then in the former case, the remaining judges of the Court of Appeals not being interested, the judge of the High Court of Chancery not being so interested,

and as many of the judges of the General Court, who are not so interested, and did not render the judgment or direct the order, as will make the number five at least, shall constitute a like court for the purpose aforesaid; and in the latter case no judge of the Court of Appeals shall sit; but any five of the judges last mentioned, and not disqualified as aforesaid, shall constitute a court. *Provided always*, that in case of the sickness or other disability of the judge of the High Court of Chancery to attend any Special Court of Appeals, such Court may, in any case, be constituted by other judges. *And provided also*, that when any Special Court shall be appointed for the trial of any cause depending in the Court of Appeals, because a majority of the judges of that Court are interested or otherwise disqualified to sit therein, in case of the sickness or disability of the remaining judge or judges of the said court not so disqualified, or either of them, the remaining judges appointed by law to hold such court, or any five of them attending may proceed to a hearing and decision of the cause, in the same manner as if all the judges of the Court of Appeals, not so disqualified, had been present.

When and where,

SEC. VI. WHENSOEVER a majority or all the judges of the Court of Appeals shall be interested in any of the cases abovementioned, the same shall be entered of record in the said court, and the clerk thereof shall thereupon issue a summons to the judge of the High Court of Chancery, and judges of the General Court, requiring them, if not disqualified as aforesaid, to attend at the capitol, in the city of Richmond, or in case of adjournment of the Court of Appeals, to any other place, at such other place on the twentieth day of June or November, then next following, and stating the names of the parties, and the court whose decision is to be examined. A court constituted in any of the cases above described, shall hear, determine, and finally decide all suits, process, matters and things submitted to their cognizance and jurisdiction aforesaid.

To be attended by the clerk,

SEC. VII. THE clerk of the Court of Appeals for the time being, shall attend all such Special Courts with the records in the cases to such Special Courts committed, and enter the proceedings of all such Special Courts in the order book of the Court of Appeals, and the same shall be signed by the presiding judge of such Special Court, and be certified to the inferior court; and the judgment or decree, sentence or order of such court shall be carried into execution in the same manner as if the same had been determined in the Court of Appeals. Such Special Courts shall be attended by the like officers with the Court of Appeals, who shall receive the like compensation as they now do in the said court; and such Special Courts may adjourn and do all and every act as a court during their session, which the Court of Appeals may by law do.

and other officers of the Court of Appeals, and to have the same power of adjournment, &c. Causes in the Special Courts when to be resumed by the Court of Appeals.

Oaths to be administered to the judges attending such Special Courts

SEC. VIII. *PROVIDED always*, That where any cause shall be pending in any such Special Court, and the same shall not be determined before there shall be a sufficient number of the judges of the Court of Appeals, qualified to make a court for deciding the same, such cause shall be resumed by the Court of Appeals, and be determined there, as if such cause had never been committed to a Special Court.

Allowances to them for attendance and travelling expenses.

SEC. IX. EACH judge attending in consequence of such summons, shall in open court take an oath to do his duty as a judge of Appeals, in the case or cases on which he is summoned, impartially and truly, without favor or affection; which oath shall be administered by the eldest sitting judge, and shall then be administered to him, if he shall not before have qualified as a judge of the Court of Appeals by one other of the judges.

Court of Appeals to appoint their officers; to be attended by the sheriff of the county in which the court is holden. Judges may appoint a clerk in vacation. Duty of the clerk. Rule in docketing causes.

SEC. X. EACH judge attending in consequence of such summons, and not disqualified as aforesaid, shall be allowed for his attendance three dollars and thirty-three cents per day, and for travelling to and from the place of session, two dollars for every twenty miles: And the judges of the Court of Appeals, attending such Special Court, and not disqualified to sit therein, shall be paid the same allowance.

SEC. XI. THE Court of Appeals shall appoint a clerk, tipstaff, and cryer, the first removable for misbehaviour, in the manner directed by the constitution, the two others at pleasure; and shall be attended by the sheriff of the county in which they sit as their officer.

SEC. XII. IF a vacancy shall happen in the office of clerk out of the terms of the said court, it shall be lawful for a majority of the judges, by commission under their hands and seals, to appoint a clerk to fill such vacancy.

SEC. XIII. THE clerk of the said court shall carefully preserve the transcripts of records certified to his court with the bonds for prosecution, and all papers relative to them, and other suits depending therein, docketing them in the order he shall receive them, that they may be heard in the same course, unless the court for good cause to them shewn, direct any to be heard out of its turn, and shall faithfully record their proceedings and decisions, and certify the same to the proper courts.

Jurisdiction of the court with respect to appeals, writs of error, *superfedeas*, &c.

SEC. XIV. APPEALS, writs of error, and *superfedeas*, may be granted, heard and determined by the Court of Appeals, to and from any final decree or judgment of the High Court of Chancery, General Court and District Courts, in the same manner, and on the same principles as appeals, writs of error and *superfedeas* are to be granted, heard, and determined by the High Court of Chancery, and District Courts, to and from any final decree or judgment of a

county, city, or borough court, and the party shall proceed in like manner, and the damages in case of affirmance shall be the same in the Court of Appeals, as in those courts respectively; and the clerk of the said court shall issue the like process for summoning the adverse party, removing the records, suspending the execution, and for every other requisite purpose, making those alterations in the form, which are necessary to adapt it to the case, as are prescribed in the like cases in the High Court of Chancery, and the District Courts, respectively.

SEC. XV. WRITS of *superfedeas* may be granted by any judge of the Court of Appeals during vacation, the party desiring to obtain the same, proceeding in like manner as in the case of a *superfedeas*, to be granted by a judge of the District Courts, to a judgment of the County Court.

Writs of *superfedeas* may be granted in vacation.

SEC. XVI. WHERE one person or several, obtain an appeal, writ of error, or *superfedeas*, bond and security given by any party, or by any responsible person, shall be valid and sufficient.

By whom bond and security may be given in appeals, &c.

SEC. XVII. WHENSOEVER any appeal, writ of error, or *superfedeas* shall be granted, and a transcript of the record be not sent to the court on or before the second term of the Court of Appeals, after the same shall have been granted, such appeal, writ of error, or *superfedeas*, shall be dismissed, unless good cause be shewn to the contrary.

When records in appeals, &c. are to be filed.

SEC. XVIII. AFTER the dismissal of an appeal, writ of error, or *superfedeas* in the Court of Appeals, no appeal, writ of error, nor *superfedeas* shall be allowed.

After dismissal of appeals, &c. none others to be allowed.

SEC. XIX. A CLEAR and concise state of the case of each party in an appeal, writ of error, or *superfedeas*, with the points intended to be insisted on, signed by his counsel and printed, the expence whereof shall be taxed in the bill of costs, shall be delivered to every judge time enough before the hearing for his consideration; but the court if this be neglected, may nevertheless hear and determine the matter, and may give such decree or judgment, if it be not affirmed or reversed in the whole, as the court whose error is sought to be corrected ought to have given, (affirming on those cases where the voices on both sides shall be equal, with an allowance of the costs of appeal to the party prevailing) to be certified to the court from which the matter was removed, who shall enter it as their own, and award execution thereupon accordingly.

Cases to be stated and printed for the judges. Judgments of the court, how to be rendered.

SEC. XX. IT shall not be lawful for the High Court of Chancery or General Court, to remove before the Court of Appeals, by adjournment, any question, matter or thing whatsoever.

No question to be removed by adjournment to the Court of Appeals.

SEC. XXI. THE judges of the Court of Appeals shall direct the form of writs from time to time in such manner as shall seem advisable.

The judges to direct the forms of writs.

SEC. XXII. ALL acts and parts of acts, within the purview of this act, shall be, and are hereby repealed.

Former acts repealed.

SEC. XXIII. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this act

C H A P. XII.

An ACT reducing into one, the several Acts concerning the High Court of Chancery.

[Passed November the 29th, 1792.]

SECTION I. BE it enacted by the General Assembly, That the High Court of Chancery shall consist of one judge, to be chosen and commissioned in the manner directed by the constitution of this commonwealth.

High Court of Chancery to consist of one judge; how chosen and commissioned. Where to be held.

SEC. II. THE said court shall be holden at the Capitol in the city of Richmond, or at such other place as shall be appointed by the General Assembly, or in their recess by the Governor, with the advice of the Council of State, on any such emergency, as will make the adjournment lawful.

SEC. III. THE said court shall be holden three times in every year, namely, on the first day of March, on the twelfth day of May, and on the tenth day of September; but if either of those days happen on a Sunday, on the day following. The session in March shall continue eighteen, and the sessions in May and September twenty-four juridical days successively, unless the business depending before the said court shall be sooner dispatched.

Terms.

SEC. IV. IF the judge shall not attend on the first day of the term, such court shall stand adjourned from day to day until a court be made, if that shall happen before four o'clock in the afternoon of the sixth day.

The court to be adjourned from day to day for six days when the judge does not attend.

Causes to be continued to the next term when the court does not sit, or does not finish the business.

Oaths to be taken by the judge.

Penalty for acting without taking the oaths.

Jurisdiction of the court.

In what cases to be considered as always open.
Officers to be appointed.

The court may require the opinion of the General Court in matters of law.
May proceed against other absent defendants as against absent debtors.
May direct issues to be tried
Mode of trial in all other cases.

Suits properly cognizable in the General Court may be tried in the Court of Chancery, when a majority of the judges of the former are interested.

SEC. V. IF a court shall not sit in any term, or shall not continue to sit the whole term, or before the end of the term shall not have heard and determined all matters ready for its decision, all suits, matters and things depending in court and undecided, shall stand continued to the next succeeding term. If from any cause the court shall not sit on any day of the term after it shall have been opened, there shall be no discontinuance; but so soon as the cause is removed the court shall proceed to business until the end of the term, if the business depending before it be not sooner dispatched.

SEC. VI. EVERY person so commissioned before he enters upon the duties of his office, shall take and subscribe the oath of fidelity to this commonwealth, and take the following oath: "YOU shall swear that well and truly you will serve this commonwealth in the office of judge of the High Court of Chancery, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to equity and good conscience, and the laws and usages of Virginia, without respect of persons. You shall not take by yourself, or by any other, any gift, fee, or reward, of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done or to be done by virtue of your office, except such fees or salary, as shall be by law appointed. You shall not maintain by yourself, or by any other, privily or openly, any plea or quarrel depending in the courts of this commonwealth. You shall not delay any person of right for the letters or request of any person, nor for any other cause; and if any letter or request come to you contrary to law, you shall nothing do for such letter or request, but you shall proceed to do the law, any such letter or request notwithstanding; and finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial justice, without fraud, favor, affection or partiality. SO HELP YOU GOD." Such oath shall be taken before the Executive, and a certificate recorded in the said court.

SEC. VII. IF any person shall presume to execute the said office, without having taken the said oaths, he shall forfeit and pay the sum of fifteen hundred dollars for his said offence.

SEC. VIII. THE said court shall have general jurisdiction over all persons and in all causes in chancery, now pending therein, or which may hereafter be brought before it, whether by original process, appeal from any inferior court, *certiorari*, or other legal means, and also in such other cases, as by any statute, are, or shall be made cognizable therein: But no person shall commence an original suit in any matter of less value than thirty-three dollars and thirty-three cents, except it be against the justices of any county or other inferior court, on pain of having the same dismissed with costs.

SEC. IX. THE said court shall be considered as always open, so as to grant injunctions, writs of *ne exeat certiorari*, and other process heretofore usually granted in vacation.

SEC. X. THE said court shall have power to appoint a clerk, who shall hold his office during good behaviour, and be entitled to such fees or salary as the legislature may appoint, as also a serjeant at arms. And in case of a vacancy in the recess of the said court, the said judge may make the like appointments under his hand and seal, during a vacation; and such succeeding clerk or serjeant, having, in any court of record, taken the oaths required by law, shall exercise the same power, perform the same duties, and be entitled to the same fees and profits, as if he had been appointed in term time.

SEC. XI. IT shall be lawful for the High Court of Chancery to send any matter of law to the General Court, for their opinion to be certified thereupon.

SEC. XII. ALTHOUGH any of the defendants, whether debtors or others, in any suit instituted in the said court, should be absent from the commonwealth, the court may nevertheless proceed to a hearing and decree therein, as in the case of absent debtors having effects within the commonwealth.

SEC. XIII. THE said court in its discretion, may direct an issue to be tried, whenever it shall be judged necessary, either in that court, or in any other court whatsoever, as justice or convenience to the parties may require, and in all other cases the mode of trial shall be the same as hath been heretofore used and practised in the Courts of Chancery in Virginia.

SEC. XIV. IF a majority of the judges of the General Court be interested in any suit, which in the case of any other person would have been proper for the jurisdiction of such court, it may be lawful to institute such suit in the High Court of Chancery, where proceedings shall be had conformably to the rules of the General Court, and process shall be returnable as the High Court of Chancery shall direct; and thereafter an appeal may be entered to the Court of Appeals.

SEC. XV. IT shall be lawful for the said court to arrange the business thereof, in the most convenient and equitable manner.

SEC. XVI. ANY party thinking himself aggrieved by a decree of the court of a county, city, or borough, in Chancery, and not having entered an appeal from the decree at the time

it was pronounced, may appeal from such decree at any time within one month after the decree pronounced, lodging for that purpose with the clerk of the High Court of Chancery, a copy of the proceedings in the suit, and a petition suggesting error in the decree, signed by some counsel attending the High Court of Chancery, and also lodging with the petition a bond executed by the appellant or his agent, and a surety or sureties with the like condition as is annexed to other appeal bonds, and affidavits, or solemn affirmations, verifying the sufficiency of the sureties; and the clerk shall thereupon issue a summons against the appellee, requiring him to appear and answer the said petition and appeal, and shall also issue a *superfedeas*, if necessary, to enjoin from proceeding in execution of the decree; and the court shall and may hear and determine the appeal in the same manner as if the appeal had been entered at the time the decree was pronounced.

SEC. XVII. *PROVIDED* always, That whenever an appeal is prayed for from any inferior court to the said High Court of Chancery, or bond is given for the removal of any suit in chancery, in any manner whatsoever, it shall be sufficient in either case, if the said bond or bonds shall be executed by good and sufficient securities, although the appellant or party shall not execute the said bond or bonds.

SEC. XVIII. THE said court, or the judge thereof in vacation, shall have power, for good cause shown, to allow a petition of appeal, and if necessary, order a *superfedeas* to stop the execution of any decree pronounced by an inferior court, at any time within three years after pronouncing the same; the party praying such appeal and *superfedeas*, complying with the terms which the said court or judge shall annex to such order.

SEC. XIX. ALL original process to bring any person to answer any bill, petition or information in the said court, and all subsequent process thereupon, shall be issued and signed by the clerk in the name of the commonwealth, and bear teste by the judge of the said court; shall be returnable to the first or seventeenth days of the term, which shall be next after the suing out such process, and may be executed at any time before the return day thereof. And if any process shall be executed so late that the sheriff hath not reasonable time to return the same before the day of appearance, and thereupon any subsequent process shall be awarded, the sheriff shall not execute such subsequent process, but shall return the first process by him executed, on which there shall be the same proceedings as if it had been returned in due time.

SEC. XX. ALL appeals from decrees in chancery, obtained in any inferior court, shall be made to the third day of the next term.

SEC. XXI. IN all suits in the said court, the following rules and methods shall be observed: The complainant shall file his bill within one calendar month after the day of appearance, or may be ruled on the requisition of the defendant to file such bill, and if he fails to do so within one calendar month after such rule, the suit may be dismissed with costs; and if he shall fail to file the same within three months after the *subpoena* shall be returned executed, the suit shall stand *ipso facto* dismissed with costs.

SEC. XXII. AND upon the complainant's dismissing his bill, or the defendant's dismissing the same for want of prosecution, the complainant shall pay costs, to be taxed by the clerk of the court; for which costs, an attachment, or other process of contempt, or an execution may issue, at the election of the defendant, returnable on any return day.

SEC. XXIII. THE complainant may amend his bill before the defendant or his attorney hath taken out a copy thereof, or in a small matter afterwards, without paying costs; but if he amend in a material point after such copy obtained, he shall pay the defendant all costs occasioned thereby.

SEC. XXIV. IF the defendant shall not appear on the day of appearance, (which in all cases shall be the second day after the term to which the *subpoena* is returnable) an attachment shall be awarded and issued against him, returnable to the next term, which being returned executed, if the defendant doth not appear, or being brought into court upon any such process, shall obstinately refuse to answer, the complainant's bill shall be taken as confessed, and the matter thereof decreed accordingly.

SEC. XXV. THE defendant within three calendar months after his appearance and bill filed, shall put in his answer to be filed with the clerk in the office, at the expiration of which time, if no answer be filed, the clerk, upon request, shall issue an attachment, returnable to the next court; and if no answer be filed upon the return of such attachment executed, or a copy thereof left at the defendant's usual place of abode, or last place of residence, the complainant's bill shall be taken as confessed, and the matter thereof decreed; and if the attachment be returned not executed, an attachment with proclamation, and such subsequent process of contempt may issue as was heretofore issuable out of the General Court sitting in chancery in like cases.

SEC. XXVI. NO process of contempt shall issue unless the *subpoena* be returned served by a sworn officer, or affidavit be made of the service thereof.

SEC. XXVII. EVERY defendant may swear to his answer before any judge of this or of the General Court, or any justice of the peace.

When appeals may be made from decrees in county courts where not entered when the decrees were pronounced.

By whom bond and security may be given in appeals, &c.

How appeals may be obtained from decrees in county courts where not entered when the decrees were pronounced.

Process, how to be issued.

Return days.

Appeals to be made to the third day of the next term.

Rules to be observed in the pleadings.

SEC. XXVIII. IF the defendant does not file his answer within three months after the plaintiff shall have filed his bill, having also been served with the *subpoena* at least three months before the said time for filing his answer, the plaintiff may have a general commission to take depositions, or he may move the court to bring in the defendant to answer interrogatories, at his election, and proceed on to hearing in the two last cases, as if the answer had been filed, and the cause was at issue: *Provided*, That the court for good cause shewn, may allow the answer to be filed, and grant a further day for such hearing.

SEC. XXIX. AFTER answer filed, and no plea in abatement to the jurisdiction of the court, no exception for want of jurisdiction shall ever afterwards be made, nor shall the High Court of Chancery, or any other court, ever thereafter delay or refuse justice, or reverse the proceedings for want of jurisdiction, except in cases of controversy respecting lands lying without the jurisdiction of such court, and also of infants and *femes covert*.

SEC. XXX. WHEN a cross bill shall be exhibited, the defendant or defendants to the first bill shall answer thereto, before the defendant or defendants to the cross bill shall be compelled to answer such cross bill.

SEC. XXXI. THE complainant shall reply, or file exceptions within two calendar months after the answer shall have been put in. If he fails so to do, the defendant may give a rule to reply with the clerk of the court, which being expired, and no replications or exceptions filed, the suit shall be dismissed with costs; but the court may order the same to be retained if they see cause, on payment of costs.

SEC. XXXII. IF the complainant's attorney shall except against any answer as insufficient, he may file his exceptions, and give a rule with the clerk to make a better answer within two calendar months, and if within that time the defendant shall put in a sufficient answer, the same shall be received without costs; but if any defendant insists on the sufficiency of his answer, or neglect or refuse to put in a sufficient answer, or shall put in another insufficient answer, the plaintiff may set down his exceptions to be argued the next term in court, and after the expiration of such rule, or any second insufficient answer put in, no farther or other answer shall be received but upon payment of costs.

SEC. XXXIII. IF upon argument the complainant's exceptions shall be over-ruled, or the defendant's answer adjudged insufficient, the complainant shall pay to the defendant, or the defendant to the complainant, such costs as shall be allowed by the court.

SEC. XXXIV. UPON a second answer adjudged insufficient, costs shall be doubled.

SEC. XXXV. IF a defendant shall put in a third insufficient answer, which shall be so adjudged, he or she may be examined upon interrogatories, and committed until he or she shall answer them, and pay costs.

SEC. XXXVI. IF the defendant, after process of contempt, put in an insufficient answer, which shall be so adjudged, the complainant may go on with the subsequent process of contempt as if no answer had been put in.

SEC. XXXVII. RULES to plead, answer, reply, rejoin, or other proceedings not before particularly mentioned, when necessary, shall be given from month to month with the clerk in his office, and shall be entered in a rule book for the information of all parties, attornies, or solicitors, concerned therein.

SEC. XXXVIII. NO defendant shall be admitted to put in a rejoinder, unless it be filed on or before the expiration of the rule to rejoin, but the complainant may proceed to set his cause down for hearing.

SEC. XXXIX. AFTER an attachment with proclamation returned, no plea or demurrer shall be received, unless by an order of court, upon motion.

SEC. XL. IF the complainant conceives any plea or demurrer to be naught, either for the matter or manner of it, he may set it down with the clerk to be argued; or if he thinks the plea good, but not true, he may take issue upon it, and proceed to trial by jury, as has been heretofore used in other causes in chancery, where trial hath been by jury: And if thereupon the plea shall be found false, the complainant shall have the same advantages as if it had been found by verdict at common law.

SEC. XLI. IF a plea or demurrer be over-ruled, no other plea or demurrer shall be thereafter received, but the defendant shall answer the allegations of the bill.

SEC. XLII. IF the complainant shall not proceed to reply to, or set for hearing, as before mentioned, any plea or demurrer before the second court after filing the same, the bill may be dismissed of course with costs.

SEC. XLIII. UPON a plea or demurrer argued and over-ruled, costs shall be paid at where an answer is judged insufficient, and the defendant shall answer within two calendar months after, but if adjudged good, the defendant shall have his costs.

SEC. XLIV. IF any defendant, after a demurrer shall have been over-ruled, shall refuse to answer, the bill shall be taken as confessed, and the matter thereof decreed.

SEC. XLV. AFTER any bill filed, and before the defendant hath answered, upon oath made that any of the complainant's witnesses are aged, and infirm, or going out of the country, the clerk may issue a commission for taking the examination of such witnesses *de bene esse*; the party praying such commission, giving reasonable notice to the adverse party, of the time and place of taking the depositions.

When plain-
tiffs may ob-
tain commis-
sions *de bene*
esse.

SEC. XLVI. WHENEVER a general commission shall issue for taking depositions upon answer and replication, six months from the time of the replication shall be allowed the parties for taking their depositions, and either party at the expiration of the said six months may set the same for hearing, nor shall any deposition taken after that time be read as evidence on the hearing, except the same was taken by consent of the parties by special order of court, or out of the state.

After a gene-
ral commission
six months al-
lowed for tak-
ing depositions
When causes
are to be set
for hearing.

SEC. XLVII. THE court in their sittings may regulate all proceedings in the office, and for good cause shewn, may set aside any dismissions, and reinstate the suits on such terms as shall appear equitable.

proceedings in
the office sub-
ject to regula-
tion by the
court.

SEC. XLVIII. FOR prevention of errors in entering up the decrees and orders of the court, the proceedings of every day shall be drawn up at large by the clerk, and read in open court the next day, except those of the last day of each term, which shall be drawn up, read, and corrected the same day, and any necessary corrections made therein, when they shall be signed by the judge of the court, and preserved among the records.

Proceedings in
court to be
read before
signing.

SEC. XLIX. AND for the more entire and better preservation of the records of the court, when any cause shall be finally determined, the clerk shall enter all the pleadings therein, and other matters relating thereto together, in a book to be kept for that purpose, so that an entire and perfect record may be made thereof, and those wherein the title to lands is determined shall be entered in separate books to be kept for that purpose only.

Compleat re-
cords to be
made in suits
determined.

SEC. L. THE court in session, or the judge in vacation, may grant writs of *certiorari*, for removing before the said court the proceedings in any suit in chancery, depending in any county or other inferior court, writs of *ne exeat* to prevent the departure of any defendant out of the country, until security be given for performing the decree, and writs of injunction to stay execution of judgments obtained in any of the courts of common law, subject nevertheless to the rules following:

Writs of cer-
tiorari, *ne exeat*
and injunc-
tion how gran-
ted.

SEC. LI. NO writ of *certiorari* shall be granted to remove any suit, unless the matter in dispute be of value sufficient to entitle the High Court of Chancery to original jurisdiction therein, nor unless ten days notice of the motion be given in writing to the adverse party, nor in vacation but upon such petition and affidavit as are by law directed for writs of *certiorari* to be granted by the District Court; and in all cases, bond and security shall be given for performing the decree of the said High Court of Chancery, before the issuing of the *certiorari*.

Rules as to
writs of certio-
rari.

SEC. LII. WRITS of *ne exeat* shall not be granted but upon a bill filed and affidavits made to the truth of its allegations, which being produced to the court in term time, or the judge in vacation, such writ may be granted or refused as shall seem just; and if granted, he shall direct to be endorsed thereon in what penalty bond and security shall be required of the defendant.

As to writs of
ne exeat, and
how, they may
be discharged.

SEC. LIII. IF the defendant shall by answer satisfy the court that there is no reason for his restraint, or give sufficient security to perform the decree, the writ may be discharged.

As to injunc-
tions.

SEC. LIV. NO injunction shall be granted to stay proceedings in any suit at law, unless the matter in dispute be of value sufficient to admit of original jurisdiction in the said High Court of Chancery, nor unless the court in term time, or the judge thereof in vacation, shall be satisfied of the plaintiff's equity, either by affidavit, certified at the foot of the bill, that the allegations thereof are true, or by other means, and shall order the same.

SEC. LV. WHERE any injunction shall be granted, the clerk shall endorse on the *subpoena* that the effect thereof is to be suspended, until the party obtaining the same shall give bond with sufficient security in the office of the court in which the judgment to be enjoined shall have been obtained.

SEC. LVI. THE party obtaining the injunction shall then enter into bond with sufficient security, and file the same in the clerk's office of that court in which the proceedings at law were had, for paying all money and tobacco and costs due, or to become due to the plaintiff in the action at law, and also all such costs as shall be awarded against him or her in case the injunction shall be dissolved; and the clerk shall endorse on the *subpoena* that the bond is filed.

Court may ap-
point commis-
sioners in cases
which require
reports and
make them an
allowance for
their trouble.

SEC. LVII. IT shall be lawful for the High Court of Chancery in such cases as may require a report, which cannot be performed without great delay to other business, to employ one or more commissioners, and to cause a reasonable allowance to be taxed in the bill of costs.

Method of proceeding against defendants in custody who refuse to enter their appearance.

How appeals may be obtained from decrees in the High Court of Chancery where not entered when the decrees were pronounced.

Proceedings on decrees may be stayed during the pendency of bills of review.

Former acts repealed.

Commencement of this act.

General Court to consist of ten judges: how chosen & commissioned. Where to be held.

Terms.

Regulations respecting adjournment.

Oaths to be taken by the judges.

SEC. LVIII. IF any defendant or defendants shall be in custody upon any process of contempt, and be brought into court by virtue of a writ of *habeas corpus*, or other process, and shall refuse or neglect to enter his or her appearance according to the rules of the court, or appoint an attorney of the court to do the same for him, the court in such case may direct an attorney to enter an appearance for the defendant or defendants, and thereupon such proceedings may be had as if he or they had actually entered an appearance; but if such defendant or defendants shall be in custody at the time a decree shall be made upon refusal or neglect to enter an appearance, or to appoint an attorney as aforesaid, or shall be forth coming so as to be served with a copy of the decree, then such defendant or defendants shall be served with such copy before any process shall be taken out to compel the performance thereof, and if such defendant or defendants shall die in custody before such service, then his heir, if any real estate be sequestered or affected by such decree, or if only personal estate, his executor or administrator shall be served with a copy in a reasonable time after such death shall be known to the plaintiff, and who is such heir, executor or administrator.

SEC. LIX. WHEREAS many persons against whom decrees may have been rendered in the High Court of Chancery, may desire to appeal from such decrees, but have been hindered from doing so, at the term in which the said decrees were pronounced: *Be it enacted*, that if upon a petition to any judge of the Court of Appeals, or the judge of the High Court of Chancery in vacation next after the term, when such decree shall have been rendered, for relief in such a case, it shall appear to his satisfaction, that the failure to appeal from his decree, at the time, or during the term when it was pronounced, did not arise from any culpable neglect in the petitioner, or that upon the whole circumstances of the case, the petitioner ought to have the benefit of an appeal, it shall be lawful for the said judge to grant the said appeal, which grant of appeal, shall be as effectual, both for staying proceeding on the said decree, and for bringing the same before the Court of Appeals for their decision, as if the same had been duly made during the term when the said decree was pronounced.

SEC. LX. AND whereas upon bills of review in the said High Court of Chancery, the judge of the said court may think it reasonable, during the pendency of such bills, or until cause shall be shewn to the contrary, to stay proceedings on the decree, which such bills are intended to review: *Be it enacted*, that in such case, the judge of the said High Court of Chancery, either in term time or in vacation, when a bill praying a review of the proceedings in which a decree shall have been pronounced by the said court, shall be presented to him, may upon such bill, and the circumstances of the case, as the same shall appear satisfactory to him, direct proceedings on such decree to be stayed, until a decree on the said bill of review shall be made or until the further order of the said judge; or the said judge may refuse to grant a stay of proceedings in that case, as to him shall seem right. *Provided*, that the said judge of the High Court of Chancery shall in either of the said cases direct such security to be given, and in such place as is usual in the cases of appeal and injunction, or such other security as to him shall seem to be reasonable.

SEC. LXI. ALL acts and parts of acts within the purview of this act, shall be, and are hereby.

SEC. LXII. THIS act shall commence and be in force from and after the passing thereof.

C H A P. XIII.

An ACT reducing into one, the several Acts and parts of Acts concerning the General Court, and prescribing the manner of proceeding therein in certain cases.

[Passed December the 13th, 1792.]

SECTION I. *BE it enacted by the General Assembly*, That the General Court of this commonwealth shall consist of ten judges, to be chosen and commissioned in the manner directed by the constitution of the commonwealth. Any three of the said judges shall constitute a court, except in cases of impeachment, on which occasion a majority of the whole number shall be necessary. The said court shall be holden at the Capitol in the city of Richmond, or at such other place as shall be appointed by the General Assembly, or in their recess, by the Governor, with the advice of the Council of State, on any such emergency as will make the adjournment lawful. The said court shall be holden twice in every year, namely, on the ninth day of June and the ninth day of November, or if either of those days shall be Sunday, then on the succeeding day, and shall continue their session for sixteen juridical days at each term, unless the business before them be sooner dispatched. If a sufficient number of judges should not attend on the first day of any term, or on any other day during the term, any one of the said judges may adjourn the court from day to day, for six days successively, and if a sufficient number should not be then able to attend, all suits depending in such court, shall stand continued over to the next succeeding term. Every person so commissioned before he enters upon the duties of his office, shall take and subscribe the oath of fidelity to the commonwealth, and take the fol-

following oath of office, to wit: "You shall swear that well and truly you will serve this common-wealth in the office of a judge of the General Court, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to law, without respect of persons. You shall not take by yourself, or by any other, privily or openly, any gift, fee, or reward, of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done or to be done, by virtue of your office, except such fees or salary as shall be by law appointed. You shall not maintain by yourself, or other, privily or openly, any plea or quarrel depending in the courts of this common-wealth. You shall not deny or delay any person of common right, for the letters or request of any person, nor for any other cause; and if any letter or request come to you contrary to the law, you shall nothing do for such letter or request, but you shall proceed to do the law, any such letter or request notwithstanding; and finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial justice, without fraud, favor, affection or partiality. SO HELP YOU GOD." Which oaths may be taken before the Executive, any court of record, or a justice of the peace, and a certificate thereof being obtained, shall enable such judge to do all the duties of his office, and such certificate shall be recorded in the General Court, or District Court, where such judge shall first sit. If any person shall presume to sit in court or execute the said office, without having taken the said oaths, he shall for such offence forfeit the sum of fifteen hundred dollars.

By whom to be administered.

Penalty for acting without taking the oaths.

SEC. II. THE said court shall appoint a clerk, one or more assistant clerks, if necessary, a crier and tipstaff, the first removable for misbehaviour in the manner directed by the constitution, the others at pleasure; who shall be entitled to such fees or salaries as shall be established by law. And the sheriff, or so many of the under sheriffs as shall be thought necessary, of the county where such court may be held, shall attend the said court during their sessions.

Officers to be appointed by the court. Sheriff of the county in which the courts sit to attend.

SEC. III. THE jurisdiction of the said court shall be general over all causes, matters and things at common law, as well criminal as civil, except in such cases, as by the constitution of the United States of America, or of this commonwealth, or any statute made by the Congress of the said United States, or the General Assembly of this commonwealth, are or shall be vested in any other tribunal; in any of which cases the jurisdiction of the General Court shall cease, unless concurrent jurisdiction be thereto expressly given by this act, or some other statute. The said court shall have jurisdiction in all causes, matters and things therein depending at the commencement of this act; and no discontinuance shall take place in any case whatsoever, by reason of the passing of this act. The said court shall continue to have jurisdiction, in all cases, suits and motions against public debtors and public defaulters of every denomination, for and in behalf of the commonwealth. If the judge of the High Court of Chancery shall be interested in any matter, which in the case of any other person would have been proper for the jurisdiction of such court, it shall be lawful to institute such suit in the General Court, where proceedings shall be had conformably to the principles and usages of equity; and process shall be returnable as the General Court shall direct; and thereafter an appeal may be had to the Court of Appeals. Writs of *scire facias* may be issued from, and be tried in the General Court upon all judgments which have been or shall be obtained therein; the said court may fine sheriffs, deputy sheriffs, or coroners, for not returning executions issued, or to be issued from the said court, and enter up judgments against the said officers, for all money or tobacco, for which they have made or shall make themselves respectively liable by law upon such executions; may award execution upon replevy bonds, or bonds to have goods forth-coming at the day of sale; may quash executions if illegally or improvidently issued or executed, and award new ones; and finally, may exercise full jurisdiction in every other legal mode necessary for carrying into complete execution, all judgments heretofore given, or hereafter to be given in the said court; any law to the contrary, or seeming to the contrary, notwithstanding. The said court shall have power to hear and determine upon all errors in matters of fact, that shall or may have happened in the proceedings depending in the said court.

Jurisdiction of the court.

SEC. IV. THE said court shall have power to issue writs of *mandamus* to the District Courts.

May award writs of *Mandamus* to the district courts.

SEC. V. THE said court shall likewise have jurisdiction to hear and determine motions against the delinquent subscribers of the Patowmac and James river Companies, and for securities against their principals; and for sheriffs against their deputies and securities, or either of them.

Further description of jurisdiction.

SEC. VI. FOR good cause shewn, the General Court may direct the trial of any cause depending before a District Court, to be had by a jury at their own bar, for which purpose the sheriff, or any other officer attending them, shall summon a jury qualified as the law now directs in cases of juries in the General Court; or may cause a suit depending in one district to be tried in another.

May for good cause direct any suit in a district court to be tried at their own bar or in another district. Suits in which judges are parties, to be removed to the Gen. Court.

SEC. VII. UNLESS good cause be shewn to the contrary, the General Court shall direct a suit depending before a District Court, in which a judge of the General Court is a party, to be removed to be tried at the bar of the General Court.

Jurisdiction
relative to
wills, adminis-
trations, &c.

SEC. VIII. THE General Court shall have jurisdiction and authority to hear and determine all causes, matters, suits, and controversies testamentary, which shall be brought before the same, and to examine and take the proofs of wills, and to hear and determine the right of administration of the estates of persons dying intestate, and to do all other things concerning wills and administrations, according to law.

Deeds partly
proved, may
be either fully
proved therein
or delivered to
the parties to
be fully prov-
ed in the dis-
trict or county
courts.

SEC. IX. THE said court shall have power and authority to receive *probat* of all deeds whatsoever, concerning lands in any part of this commonwealth, to issue commissions for the privy examination of any *feme covert* and to admit the same to record, as also to receive proof of any other deed or instrument of writing whatsoever, and to admit the same to record therein, if they shall be of opinion that the same is proper to be done. A deed for lands now or at any time hereafter partly proved in the General Court, may either be fully proved there, or shall be delivered by the clerk thereof to any person authorized to demand the same, with an endorsement of the proof made, and it may be fully proved and recorded in court of the district or county in which the lands lie.

SEC. X. IF a question of law in any criminal case be adjourned to the General Court by any District Court, the same may be therein agreed and determined, although such criminal be present.

SEC. XI. ON the adjournment of any question of law in any civil suit, the said court shall hear, determine and certify such their determination on the same, to the court from whence the question was adjourned; but no costs shall be incurred on any adjourned question.

SEC. XII. ALL original process to bring any person or persons to answer in any action or suit, information, bill or plaint, in the said court, and all subsequent process thereon, all attachments or other suits of what nature soever awarded by the said court, shall be issued and signed by the clerk of the said court in the name of the commonwealth, shall bear teste by the clerk, and be returnable on the first day of the next succeeding court, except *subenas* for witnesses; and all such process may be executed at any time before the return day, except in such cases wherein it is otherwise directed by law.

The court to
direct the ap-
pearance day.

SEC. XIII. THE appearance day to all writs and process awarded by the said court, shall be according to the direction thereof.

Grand jury to
be summoned.

SEC. XIV. THE sheriff for the time being of the county in which the General Court shall be held, shall before every meeting of the General Court, summon twenty four freeholders of this commonwealth, qualified as the law directs, for grand jurors to appear at the succeeding General Court on the first day thereof, which the sheriff is hereby empowered to do, as well without his county as within the same, and the said twenty-four men, or any sixteen of them shall be a grand jury, who shall be sworn to enquire of and present all offences against the commonwealth, which are cognizable in the said court. And if an indictment shall be found or presentment made of any such offence, the like proceedings shall be thereupon had to bring the party accused before the court, as on indictments and presentments in the District Courts, having regard to the nature of the offence.

Proceedings
on indict-
ments, present-
ments, &c.

SEC. XV. THE rules and proceedings in the General Court, in all cases, not otherwise specially directed, shall be the same as in the District Courts in similar cases, and the said court shall have the same power of awarding and refusing costs, as the District Courts have in like cases.

Keeper of the
public jail to
attend the
court.

SEC. XVI. THE keeper of the public jail, shall constantly attend the General Court and execute the commands of the court.

The clerk to
transmit lists
of fines impos-
ed by the court
to the sheriffs.

SEC. XVII. THE clerk of the General Court shall annually before the last day of January, transmit to the sheriff of each county within this commonwealth, a list of all fines imposed by the said court in the year next preceding, to the use of the commonwealth, on persons residing in such county, and the sheriffs shall respectively proceed to collect, levy, account for, and pay the same in like manner, and subject to the same remedy and proceedings against them for default as is or shall be directed in case of public taxes, being allowed in their accounts for insolvents, and five *per centum* commissions; and the said clerk shall transmit copies of such lists to the auditor, to enable him to call the sheriffs to account.

For acts re-
pealed.

SEC. XVIII. ALL and every act, clause and parts of acts, within the purview of this act shall be, and are hereby repealed.

Commence-
ment of this act

SEC. XIX. THIS act shall commence in force, from and after the passing thereof.

An ACT reducing into one, the several Acts concerning the establishment, jurisdiction, and powers of District Courts.

[Passed December the 12th, 1792.]

SECTION I. **B**E it enacted by the General Assembly, That this commonwealth shall be divided into districts, and a superior court holden in each, in the manner, and at the times and places herein-after mentioned; that is to say:—The counties of Henrico, Hanover, Chesterfield, Goochland and Powhatan, shall compose one district, and a court shall be holden for the same at the Capitol in the city of Richmond, on the first day of April, and the first day of September in every year; the counties of James City, Charles City, New-Kent, Surry, Gloucester, Mathews, York, Warwick and Elizabeth City, shall compose another district, and a court shall be holden for the same at the city of Williamsburg, in the former Capitol, on the twenty-ninth day of April, and the twenty-ninth day of September, in every year; the counties of Richmond, Westmoreland, Lancaster and Northumberland, shall compose another district, and a court shall be holden for the same at Northumberland courthouse, on the first day of April, and first day of September in every year; the counties of Essex, Middlesex, King & Queen and King William, shall compose another district, and a court shall be holden for the same at King & Queen courthouse, on the fifteenth day of April, and fifteenth day of September in every year; the counties of Spottsylvania, Caroline, King George, Stafford, Orange and Culpeper, shall compose another district, and a court shall be holden for the same at Fredericksburg, on the twenty-ninth day of April, and the twenty-ninth day of September in every year; the counties of Frederick, Berkeley, Hampshire, Hardy and Shenandoah, shall compose another district, and a court shall be holden for the same at Winchester, on the fifteenth day of April, and the first day of September in every year; the counties of Augusta, Bath, Rockbridge, Rockingham and Pendleton, shall compose another district, and a court shall be holden for the same at Staunton, on the first day of April, and the first day of September in every year; the counties of Albemarle, Louisa, Fluvanna and Amherst, shall compose another district, and a court shall be holden for the same at Charlottesville, on the fifteenth day of April, and the fifteenth day of September in every year; the counties of Fairfax, Fauquier, Loudoun, and Prince William, shall compose another district, and a court shall be holden for the same at Dumfries, on the twelfth day of May, and the twelfth day of October in every year; the counties of Harrison, Monongalia, Ohio and Randolph, shall compose another district, and a court shall be holden for the same at Monongalia courthouse, on the third day of May, and the twentieth day of September in every year; the counties of Washington, Russell and Wythe, shall compose another district, and a court shall be holden for the same at Washington courthouse, on the second day of May, and the second day of October in every year; the counties of Norfolk, Isle of Wight, Princess Anne, Nansemond and Southampton, shall compose another district, and a court shall be holden for the same at Suffolk, on the twelfth day of May, and the twelfth day of October in every year; the counties of Prince George, Sussex, Dinwiddie, Nottoway and Amelia, shall compose another district, and a court shall be holden for the same at Petersburg, on the fifteenth day of April, and the fifteenth day of September in every year; the counties of Brunswick, Greenville, Lunenburg and Mecklenburg, shall compose another district, and a court shall be holden for the same at Brunswick courthouse, on the twenty-ninth day of April, and the twenty-ninth day of September in every year; the counties of Prince Edward, Buckingham, Charlotte, Halifax and Cumberland, shall compose another district, and a court shall be holden for the same at Prince Edward courthouse, on the first day of April, and the first day of September in every year; the counties of Bedford, Campbell, Franklin, Pittsylvania, Patrick and Henry, shall compose another district, and a court shall be holden for the same at New-London, in the late courthouse of Bedford county, now belonging to James and John Calaway, who have agreed to put the same in repair at their own expense, for the use of the District Court, so to be holden in New-London, on the fifteenth day of April, and the fifteenth day of September in every year; the counties of Accomack and Northampton shall compose another district, and a court shall be holden for the same at Accomack courthouse, on the fourteenth day of May, and the fourteenth day of October in every year; the counties of Greenbrier, Botetourt, Montgomery and Kanawha, shall compose another district, and a court shall be holden for the same at Lewisburg in Greenbrier, and Botetourt courthouse, alternately, on the eighteenth day of May, and the eighteenth day of October in every year, until the proprietor of the Sweet Springs shall erect a sufficient courthouse and prison for the purpose of this act, after which time the Sweet Springs shall become the seat of the District Court. And if any of the said several days be Sunday, the courts shall in that case respectively begin on the succeeding day. Each court shall sit, if business require it, twelve days successively, Sundays exclusive (unless such sitting shall interfere with some other District Court in the same circuit) and no longer, and shall be a court of record.

The commonwealth divided into districts, and a superior court to be hold in each at certain places and on certain days.

Length of the sessions.

SEC. II. **T**HOSE counties which shall hereafter be made, shall if taken from one county, or from two or more counties lying in the same district, remain in the district to which they formerly belonged; and if taken from two or more counties lying in different districts, the counties so to be made, shall be annexed (unless it be otherwise declared by the Legislature) to such of the districts in which the old counties lie, as shall be approved by the Executive, subject to the revision of the General Assembly.

Counties hereafter made, to what districts to be annexed.

Two of the judges of the General Court to attend each District Court.

Each judge of the General Court to qualify as a judge of the District Courts, And may act as such, without qualifying as a judge of the General Court. Penalty for acting as a judge of the District Courts without qualifying as such.

Regulations respecting adjournment of the courts and continuance of causes when they do not sit or do not finish the business.

Their jurisdiction.

Mode of trial.

Jurors to be summoned and impanelled.

Further description of jurisdiction.

New or difficult questions may be adjourned to the General Court.

SEC. III. IT shall be the duty of two of the judges of the General Court to attend each District Court at their respective terms; and the said two judges shall constitute a court for such district. In case of a temporary appointment of a judge made by the Executive, such judge shall take the place of him in whose stead he was appointed: *Provided nevertheless*, that if any one of the said judges shall not attend the court, to which he shall be so allotted, in such case the other judge shall constitute a court, under the restrictions herein-after mentioned.

SEC. IV. EACH judge of the General Court, besides the oaths required by law to be taken by him as such, shall take another oath as judge of the District Courts, in the same form as that prescribed by law for a judge of the General Court, changing the words "General Court," for "District Courts;" which oaths may be taken before the Executive, any court of record, or a justice of the peace, and a certificate thereof being obtained, shall enable him to do all the duties of office, and to act as a general conservator of the peace throughout the commonwealth. Such certificate shall be recorded in the General Court, or District Court where such judge shall first sit. Any person appointed a judge of the General Court may act as a judge of the District Courts, without having taken the oaths as a judge of the General Court. Any judge who shall sit as a judge of a District Court without having taken the oaths herein required to be taken by him, shall forfeit the sum of fifteen hundred dollars, to be recovered by action of debt or information in any court of record, one half to the use of the commonwealth, and the other half to the use of the informer.

SEC. V. IF neither of the judges shall attend on the first day of any District Court, such court shall stand adjourned from day to day until a court shall be made, if that shall happen before four of the clock in the afternoon of the sixth day. If a court shall not sit in any term, or shall not continue to sit the whole term, or before the end of the term shall not have heard and determined all matters ready for their decision, all such suits and things depending in court and undecided, shall stand continued to the next succeeding term. If from any cause the court shall not sit on any day in a term after it shall have been opened, there shall be no discontinuance; but so soon as the cause is removed, the court shall proceed to business until the end of the term, if the business depending before them be not sooner dispatched.

SEC. VI. THE jurisdiction of the said courts respectively, shall be over all persons, and in all causes, matters or things at common law, which were cognizable in the General Court on the twenty second day of December, one thousand seven hundred and eighty-eight, and which shall amount to one hundred dollars, or three thousand pounds of tobacco, whether brought before them by original process, by *habeas corpus*, appeal, writ of *error*, *superfedeas*, *mandamus*, *certiorari* to remove proceedings on a forcible entry or detainer, or for any other purpose, or by any legal ways or means whatsoever, except in the cases herein after mentioned, and such cases as by the constitution of this commonwealth, or some particular statute heretofore made or hereafter to be made, are or shall be exclusively vested in, or reserved to the General Court. They shall also have the same jurisdiction concerning mills, wills, roads and letters of administration, public debtors, whether sheriffs, or others, and the recording of deeds for lands and other property within the district, and *caveats*, as the General Court heretofore had by law, allowing the person entering any *caveat* to return a certified copy thereof, from the register to the District Court office, within thirty days from the time of entering the said *caveat*. And the said courts shall hear and determine all controversies touching the same. *Provided also*, that writs of *habeas corpus*, appeal, *error*, *superfedeas*, *mandamus* and *certiorari*, and controversies concerning mills, wills, roads, *caveats*, and letters of administration, shall not be heard or determined by any District Court, unless such writ of *error*, *superfedeas*, *mandamus*, and *certiorari*, relate to some record or proceeding within the said district, or the person praying the *habeas corpus*, or the mills, or roads or lands for which the *caveats* have been instituted be within the same, or the wills or letters of administration be cognizable by the court of some county within the said district. Those cases in which the court of admiralty heretofore had jurisdiction by law, and which are not taken away by the constitution of the United States, are hereby transferred to the District Courts to be proceeded on as the law requires in the said court of admiralty.

SEC. VII. THE court shall have power to try all issues and enquire of damages by a jury in all causes before them, and to determine all questions concerning the legality of evidence and other matters of law which may arise; for which trial the court shall cause the sheriff attending them, to summon, impanel and return jurors.

SEC. VIII. THE court shall hear and determine motions against sheriffs or other officers, and attorneys at law for refusing to pay money due to clients, for the directors of the James River and Patowmac Companies, and for securities against their principals, or against each other, for contribution in all cases and according to the rules prescribed by law.

SEC. IX. THE court when a question, new or difficult arises, may adjourn any matter of law to the General Court, or any party thinking himself aggrieved by the judgment of the District Court may appeal thereupon as of right, or obtain a writ of *error* thereto from the Court of Appeals not of right, but at the discretion of the court.

SEC. X. ON an adjournment of a question to the General Court, or an appeal or writ of *error* to the Court of Appeals, the same proceedings shall be had as in cases heretofore going

from the General Court to the Court of Appeals, but no costs shall be incurred on any adjourned question.

SEC. XI. EACH of the said District Courts in term time, or any judge thereof in vacation, shall, and may have and exercise the same power of granting injunctions to stay proceedings on any judgment obtained in any of the said District Courts, as is now had and exercised by the judge of the High Court of Chancery in similar cases, and the said District Courts may proceed to the dissolution or final hearing of all suits commencing by injunction, under the same rules and regulations as are now prescribed by law for conducting similar suits in the High Court of Chancery.

The District Courts in term time, or any judge in vacation may grant injunctions to judgments obtained therein.

SEC. XII. WHENSOEVER there shall be a vacancy in the office of clerk of any District Court, it shall be lawful for a majority of the judges of the General Court to appoint, by commission under their hands and seals. *Provided*, That when such vacancy shall happen during the session of a District Court, or the judges of the General Court shall neglect to supply any vacancy until the ensuing session of the District Court in which the vacancy shall be, it shall be lawful for the judges attending such District Court to appoint a clerk by commission under their hands and seals, which shall be as valid and effectual as if granted by a majority of the judges of the General Court. And where the clerk of any District Court cannot attend, it may be lawful for the judge or judges of such court, to appoint a clerk *pro tempore*.

Vacancy in the office of clerk, how to be supplied.

When clerks *pro tempore* may be appointed.

SEC. XIII. EVERY person appointed clerk of any District Court, having taken the oath for giving assurance of fidelity to the commonwealth, and the oath required to be taken by clerks of courts, adapting the same to the District Court, shall thenceforth be enabled to execute the duties of his office; which oaths may be taken by the clerks respectively, before any court of record in the commonwealth, and a certificate thereof shall be entered of record in his district, wherein at the first session after his appointment, he shall moreover enter into bond, with sufficient security, in the penalty of ten thousand dollars, payable to the Governor or Chief Magistrate, and his successors, with condition for the faithful performance of his duty; which bond may be put in suit for the benefit, and at the costs of any person or persons aggrieved by the non-feizance or misfeizance of the clerk, as often as there shall be occasion, until the whole penalty shall be recovered or levied.

Every clerk to take the oaths of fidelity and of office,

and to enter into bond with security for performance of his duty.

SEC. XIV. EACH clerk shall hold his office during good behaviour, shall be removable on conviction upon an indictment or information, for mis-user or non-user in office, and shall reside and keep his office at the District Courthouse of which he is clerk; but when it is held alternately at different courthouses, then he shall keep his office at either the one or the other courthouse, as he may think best. The clerk's fees shall be the same with those of the county courts for similar services, and for all other services, the same as those of the clerk of the General Court, and shall be collected and accounted for in the same manner, and under the same penalties, as those of the clerks of the county courts now are.

Tenure of their office. How removable. To reside and keep their offices at the District courthouses; their fees.

SEC. XV. A TAX of one dollar shall be, and is hereby imposed on all final judgments in the District Courts, which shall be paid by the party obtaining the same, to the clerk of the court, before such judgment shall be entered, and taxed in the bill of costs, and in all other respects the tax on process in the District Courts shall be the same, and be taxed in the bill of costs in like manner, as is by law directed, and the taxes on appeals from the District Courts, and also on attorneys practicing therein, shall be the same; to be collected, accounted for, and paid by the clerks respectively, in the like manner, and subject to the same mode of proceeding against them for default, as is directed for the like taxes in the county courts. But no tax shall be demanded on the judgments rendered on any appeal, writ of error, *superfedeas*, special verdict, or case agreed, transferred from the General Court to the District Courts.

Taxes on judgments,

and process.

SEC. XVI. THE District Courts to be held as aforesaid, shall have full power to hear and determine all treasons, murders, felonies, and other crimes and misdemeanors, committed within their district, and which shall be brought before them, under the regulations herein-after prescribed; that is to say: In all criminal cases where the charge shall be of such a nature as in case of conviction, to subject the party to capital punishment, or burning in the hand, two judges shall be necessary to proceed upon the trial of the issue, whether in law or fact. *Provided always*, That if only one judge shall attend the said court, and any prisoner shall notwithstanding petition to be brought to trial, in such case, one judge shall constitute a court for such purpose. When two judges shall attend, all questions arising in criminal cases, and submitted to the court, in case the court shall be divided, shall be considered as adjudged in favor of the criminal; and if the court shall be divided upon the final judgment or sentence, judgment shall be entered up in favor of the prisoner, and he forthwith discharged. When two judges do not attend, all criminal cases depending in such court, and not tried upon the indictment and petition of the prisoner, where the punishment shall be death, or burning in the hand, shall stand continued over to the next court to be holden for that district; and if two judges do not attend at such next court, every prisoner whose cause has been so continued over, shall be bailed as of right, which bail shall be according to the degree of the offence, and the ability of the prisoner. And if such prisoner shall appear on the first day of the next term, and render himself pursuant to his recognizance, and there shall not be a sufficient court to try such prisoner on or before the third day of that court, such prisoner shall be forthwith discharged. *Provided always*, That any one judge may hear and determine a motion in behalf of the commonwealth, for giving judgment and awarding execution against any person convicted of a ca-

Criminal jurisdiction.

In what cases two judges shall be necessary to constitute a court.

Proviso. When the court is divided in a criminal case, the question to be considered as adjudged in favor of the criminal.

Mode of proceeding in criminal cases when two judges do not attend.

Certain cases excepted.

Questions of law in criminal cases may be adjourned to the General Court.

A jailor to be appointed in each district. District jails to be subject to the direction of the judges. The judges to make allowances to the jailors.

Keepers of county jails, used as district jails, to act as keepers of the district jails. District jailors to be exempted from serving in the militia & on juries.

Poor prisoners not to be detained for non-payment of prison fees.

Guards may be impressed for the district jails. Fees for keeping and dieting prisoners.

Prison rules to be assigned. Judgments of the District Courts in criminal cases, by whom to be executed.

Allowances to be made to the sheriff attending the courts,

The Court of Appeals to direct the forms of writs.

Directions concerning process.

Writs of habeas corpus, in what manner to be granted. How to be obtained by any person committed to a county jail in a civil action.

Process in suits against the governor, councilors, judges, and sheriffs.

pital offence, where such criminal shall escape between the conviction and the sentence; or against any person attainted of a capital offence, where the day of execution shall have passed, and no pardon or reprieve shall have been granted. A District Court may adjourn a question of law in any criminal case, to the General Court, with the consent of the criminal, which may be there argued and decided, although such criminal be not present.

SEC. XVII. A PUBLIC jailor shall be from time to time appointed to each district by the Governor and Council, who shall give bond and security to the Governor and his successors, in the penalty of fifteen hundred dollars, with condition for the faithful performance of the duties of his office, and shall be amenable to the judges of the District Court; and the said judges shall have the direction of the district jail, and they are hereby authorized and required, from time to time, to order and direct such allowance to be made for the prisoners confined therein, and to fix what shall be paid to the keeper thereof for his trouble, as the said judges shall think reasonable, and moreover to certify such allowance from time to time to the Auditor, who is hereby directed to debit the same, and give a warrant upon the Treasurer for the payment thereof. *Provided nevertheless*, That whenever the jail of a county, is used as a district jail, the keeper of the county jail, and no other, shall act as keeper of the jail of the said district. The jailor during his continuance in office, shall be exempted from serving in the militia, and on juries. The keeper of the district jail shall constantly attend the said court, and execute the commands of the said court from time to time, and take or receive into his custody, all persons by the court to him committed on original or mesne process; or in execution in any civil suit, or for any contempt to the court, and him or them safely keep until thence discharged by due course of law, and may demand of every such prisoner the legal fees for diet and care; but where such prisoner is so poor as not to be able to support him or herself in prison, the jailor shall be allowed by the public, seventeen cents *per day*, for the maintenance of every such poor prisoner, and no security shall be demanded of him or her, nor shall he or she be detained for such prison fees. The keeper of the district jail, by order of any two justices of his county, may impress guards for the safe keeping of all prisoners in his custody, to be paid by the public, a like sum and in like manner, as is by law allowed for guards impressed by sheriffs for securing prisoners. The fee to the sheriff of the county and to the district jailor for keeping and dieting any such prisoner, shall be seventeen cents *per day*.

SEC. XVIII. PRISON rules and bounds shall be assigned by the District Courts.

SEC. XIX. TO prevent misconstruction, it is hereby declared, that the sheriff of the county in which any District Court shall sit, shall execute all judgments rendered by such court in any criminal case, provided such judgments are by law to be executed in the said county. Every District Court may make a reasonable allowance to the sheriff attending the same for his trouble, as well for his services heretofore rendered, as those in future to be by him performed, to be paid as the cryer of the General Court; and the auditor of public accounts is hereby required to issue warrants in favor of such persons as have heretofore acted as cryers in the several District Courts, agreeable to the certificates of the clerks of the said courts, to be paid in the same manner as the cryer of the General Court.

SEC. XX. THE judges of the Court of Appeals shall direct the forms of writs, from time to time, in such manner as shall seem advisable, and until an alteration be made therein, the forms shall be as nearly as may be, assimilated to those now used in the General Court.

SEC. XXI. ALL writs, summonses, and other legal process, shall be issued by the clerk, bear teste in his name, and be returnable to the next court to be holden for the district, except in the case of *subpoenas* for witnesses, which may be returnable immediately, if issued in term time, or on any day of the term.

SEC. XXII. WRITS of *habeas corpus* may be granted by the said courts, pursuing in all respects the act, intituled, "An act directing the mode of suing out and prosecuting writs of *habeas corpus*." And where any person shall be committed in any civil action to the jail of any county or corporation for any cause or matter cognizable in the District Courts, it shall be lawful for the clerk of the court of the district wherein such commitment shall be, and he is hereby required, upon the application of such person, and a certificate of his or her being actually in jail, to issue a writ of *habeas corpus, cum causa*, to remove the body of such prisoner into the district jail, and the cause of his commitment into such District Court, returnable on the first day of the succeeding court, if issued in vacation, on the last of the term, if sued out whilst the court is sitting.

SEC. XXIII. IN all actions or suits which may be commenced against the Governor of this commonwealth, any member of the Privy Council, any of the judges of the Superior Courts, or the sheriff of any county, during his continuance in office, instead of the ordinary process, a summons shall issue to the sheriff or other proper officer reciting the cause of action, and summoning such defendant to appear and answer the same on the proper return day in the next District Court, and if such defendant being summoned or after a copy shall have been left at his house ten days before the return day, shall not appear to answer the same, the court shall proceed against such defendant, in the same manner as if he had been taken upon a *capias ad respondendum*. *Provided always*, that after judgment and the return of a *fieri facias* by the sheriff of that county in which the defendant in any such case resides, that

no effects, or not sufficient, are to be found in his baliwick, to satisfy the said judgment, a *capias ad satisfaciendum* may be issued as in other cases.

SEC. XXIV. NO writ of *capias ad respondendum* shall be issued against any person in any other district than that in which he resides, until a *non est inventus* has been returned in his or her district, upon a *capias* issued against such defendant in the same suit, and every writ issued contrary thereto, shall be void, and dismissed on the first calling thereof: *Provided nevertheless*, that where two or more persons are or shall be jointly, or jointly and severally bound for the performance of any contract, or for the payment of money or tobacco, by bond, covenant or otherwise, it shall be lawful to prosecute such persons jointly, in whatever district either of them may reside, and process shall be issued and served accordingly in any county or district wherein the non-resident defendant or defendants may be found, and where the bond or other writing on which such suits shall be founded, shall be filed in the General Court, in a county or other inferior court, in the court of one district, and over thereof shall be demanded by the defendant or defendants to a suit in another district, it shall be sufficient for the plaintiffs, in the last mentioned suit, to file a copy of the bond or writing, attested by the clerk of the court, wherein the same is filed, and the defendant or defendants shall be obliged to plead thereto in like manner, as if the original bond or writing was filed, and such copy shall be admitted as evidence on the trial. If however the defendant or defendants shall in such case plead that the original bond or writing is not his or their deed, the clerk of the court having such original paper in his custody, shall on being summoned as a witness attend with the same at the trial of the issue for the inspection of the jury.

SEC. XXV. IN all actions to recover the penalty for breach of any penal law not particularly directing special bail to be given, in actions of slander, trespass, assault and battery, actions on the case for trover or other wrongs, and all personal actions, except such as shall be herein after particularly mentioned, the plaintiff or his attorney shall on pain of having his suit dismissed with costs, endorse on the original writ or subsequent process, the true species of action, that the sheriff, to whom the same is directed, may be thereby informed, whether bail is to be demanded on the execution thereof, and in the cases before mentioned, the sheriff may take the engagement of an attorney practising in the District Court, endorsed on the writ, that he will appear for the defendant or defendants, and such appearance shall be entered with the clerk in the office, on the first day after the end of the court to which such process is returnable, which is hereby declared to be the appearance day in all process returnable to any day of the court next preceding. And although no such engagement of an attorney shall be offered to the sheriff, he shall nevertheless be restrained from committing the defendant to prison, or detaining him in his custody for want of appearance bail, but the sheriff in such case shall return the writ executed, and if the defendant shall fail to appear thereto, there shall be the like proceeding against him only, as is herein after directed against defendants and their appearance bail, where such is taken. *Provided always*, that any judge of the General Court in actions of trespass, assault and battery, trover and conversion, and in actions on the case where upon proper affidavit or affirmation, it shall appear to him proper that the defendant or defendants should give appearance bail, may, and he is hereby authorized to direct such bail to be taken by indorsement on the original writ, or subsequent process; and every sheriff shall govern himself accordingly.

SEC. XXVI. IN all actions of debt, founded upon any writing obligatory, bill or note in writing, for the payment of money or tobacco, all actions of *covenant* or *detinue*, in which cases the true species of action shall be endorsed on the writ as before directed, and that appearance bail is to be required, the sheriff shall return on the writ, the name of the bail by him taken, and a copy of the bail bond to the clerk's office, before the day of appearance; and if the defendant shall fail to appear accordingly, or shall not give special bail, being ruled thereto by the court, the bail for appearance may defend the suit, and shall be subject to the same judgment and recovery as the defendant might or would be subject to, if he had appeared and given special bail, and in actions of *detinue*, the bail piece shall be so changed, as to subject the bail to the restitution of the thing, whether animate or inanimate, sued for, or the alternative value, as the court may adjudge.

SEC. XXVII. AND if the sheriff shall not return bail, and the copy of the bail bond, or the bail returned shall be adjudged insufficient by the court, and the defendant shall fail to appear and give special bail, if ruled thereto, in such case the sheriff may have like liberty of defence, and shall be subject to the same recovery as is provided in the case of appearance bail. And if the sheriff depart this life, before judgment be confirmed against him, in such case the judgment shall be confirmed against his executors or administrators, or if there shall not be a certificate of *probat* or administration granted, then it may be confirmed against his estate, and a writ of *fieri facias* may in either case be issued. But the plaintiff shall object to the sufficiency of the bail during the sitting of the court next succeeding that to which the writ is returnable, or in the office, on the first or second rule day, and at no time thereafter. And all questions concerning the sufficiency of bail so objected to in the office, shall be determined by the court at their next succeeding term; and in all cases where the bail shall be adjudged insufficient and judgment entered against the sheriff, he shall have the same remedy against the estate of the bail as against the estate of the defendant.

SEC. XXVIII. AND every judgment entered in the office against a defendant and bail, or against a defendant and sheriff, shall be set aside, if the defendant at the succeeding court shall be

No person to be sued out of the district in which he resides, until a non est inventus has been returned on a capias issued against him in such district. In what cases copies of bonds may be filed and defendants in suits thereon shall plead thereto.

In certain suits plaintiff must endorse on the writ the true species of action. When the sheriff may take the engagement of an attorney to appear for the defendant. Defendant not to be committed for want of bail in certain suits.

In certain cases a judge may direct an appearance bail.

Directions to the sheriff, where bail is required.

When the bail may defend the suit. How bail shall be given in detinue.

Remedy against sheriff neglecting to return sufficient bail.

Exceptions to bail, when to be made and determined. Sheriff's remedy against bail adjudged insufficient.

Office judgments, when set aside.

allowed to appear without bail, put in good bail, being ruled so to do, or surrender himself in custody, and shall plead to issue immediately. The court shall regulate all other proceedings in the office during the preceding vacation, and rectify any mistakes or errors which may have happened therein.

Errors in the office how rectified. Remedy to the bail and sheriff against defendant's estate.

SEC. XXIX. IN every case where judgment shall be confirmed against any defendant or defendants and bail, or the sheriff, his executors, administrators, or estate, as aforesaid, the court upon motion of such bail, or of such sheriff, his executors or administrators, or any other person on behalf of his estate, may order an attachment against the estate of such defendant or defendants, returnable to the next succeeding court, and upon the execution and return of such attachment, the court shall order the estate seized or so much thereof as will be sufficient to satisfy the judgment and costs, and all costs accruing under the attachment, to be sold as goods taken in execution upon a *fiere facias*, and out of the money such judgment and costs shall be satisfied, and the surplus, if any, restored to the defendant or defendants when required.

How special bail may be taken in the country and excepted to,

SEC. XXX. ANY judge of the General Court, when the District Court is not sitting, or any justice of the peace, may take recognizance of special bail in any action therein depending, which shall be transmitted by the person taking the same, before the next succeeding court to the clerk of the said court, to be filed with the papers in such action; and if the plaintiff or his attorney shall except to the sufficiency of the bail so taken, notice of such exception shall be given to the defendant or his attorney, at least ten days previous to the day on which such exception shall be taken, and if such bail shall be adjudged insufficient by the court, the recognizance thereof shall be discharged, and such proceedings shall be had, as if no such bail had been taken.

Surrender of principal and proceedings thereupon.

SEC. XXXI. EVERY special bail may surrender the principal before the court where the suit hath been or shall be depending at any time, either before or after judgment shall be given; provided such surrender be made before the appearance day of the first *seire facias* against the bail returned executed, or of the second returned *nihil*, but in either case the special bail shall pay the costs of the said *seire facias*, and judgment for the same shall be entered against him accordingly. Upon such surrender, the bail shall be discharged, and the defendant or defendants shall be committed to the custody of the sheriff or jailor attending such court; if the plaintiff or his attorney shall desire the same, or such special bail may discharge himself or herself by surrendering the principal or principals to the sheriff of the county where the original writ was served, and such sheriff shall receive such defendant or defendants, and commit him, her, or them, to the jail of his county, and shall give a receipt for the body or bodies of such defendant or defendants, which shall be by the bail transmitted to the clerk of the court where the suit is or was depending. When such surrender after judgment shall be to the sheriff, he shall keep such defendant or defendants in his custody, in the same manner, and subject to the like rules, as are provided for debtors committed in execution for the space of twenty days, unless the creditor, his attorney, or agent, shall sooner consent to his, her, or their discharge. The bail shall give immediate notice of such render to the creditor, his attorney or agent, and if within the said twenty days, such creditor, his attorney or agent, shall not in writing charge the debtor or debtors in execution, he, she, or they shall be forthwith discharged out of custody, but the plaintiff or plaintiffs may nevertheless afterwards sue out any legal execution against such debtor or debtors, without suing out a *seire facias*.

Method of proceeding against a defendant in custody.

SEC. XXXII. WHEN the sheriff or other proper officer, shall return on any original or mesne process, that he hath taken the body of any defendant and committed him to prison for want of appearance bail, the plaintiff may proceed, and the defendant make his defence, in like manner as if his appearance bail had been entered and accepted, but the defendant shall not be discharged out of custody until he shall put in good bail, or the plaintiff, shall be ruled by the court to accept an appearance without bail, and where any defendant after appearance entered, shall be confined to prison, the plaintiff may file his declaration, give a rule to plead, and deliver copies of such declaration and rule to the defendant or his attorney, and if the defendant shall fail to enter his plea, within two months after receiving such declaration and notice, the plaintiff may have his judgment by default, as in other cases.

What further process when a capias is returned "not found." Proceedings on attachment returned "executed."

SEC. XXXIII. WHERE the sheriff or other proper officer, shall return on any writ of *capias* to answer in any civil action, that the defendant is not found within his bailiwick, the plaintiff may either sue out an *alias* or a *pluries capias*, until the defendant shall be arrested, or a *testatum capias*, where he shall be removed into another county, or may, at his election, sue out an attachment against the estate of the defendant to force an appearance; and if the sheriff or other officer shall return that he hath attached any goods, and the defendant shall not appear and replevy the same, by entering his appearance and giving special bail, in case he shall be ruled so to do, the plaintiff shall file his declaration and be entitled to a judgment for his debt or damages and costs, which judgment shall be final in all actions of debt founded on any specialty, bill or note in writing; ascertaining the demand, unless the plaintiff shall choose in any such case to have a writ of enquiry of damages, and in other cases the damages shall be settled by a jury sworn to enquire thereof. The goods attached shall remain in the hands of the officer until such final judgment be entered, and then be sold in the same manner as goods taken upon a *fiere facias*, and if the judgment shall not be thereby satisfied, the plaintiff may sue out ex-

execution for the residue; and in case more goods be attached than will satisfy the judgment, the surplus shall be returned to the defendant.

SEC. XXXIV. IF any writ or process shall be executed, and for want of a return thereof to the office from which it issued, an *alias*, *pluries*, attachment, or other process be awarded, the sheriff shall not execute such subsequent process, but shall return the first process by him executed, if it be in his possession, but if it be not in his possession, then he shall return the subsequent process, with an endorsement of the execution of such first process, and the name of the appearance bail, if any was taken, and shall also return a copy of the bail bond, on which there shall be the same proceedings, as if the said first process had been duly returned.

Where process is executed but not returned.

SEC. XXXV. RULES shall be monthly held in the clerk's office of each District court, beginning the day after the rising of such court. The plaintiff shall file his declaration in the clerk's office at the next succeeding rule day, after the defendant shall have entered his appearance, or the defendant may then enter a rule for the plaintiff to declare, which if he fails or neglects to do, at the succeeding rule day, or shall at any time fail to prosecute his suit, he shall be non-suited, and pay to the defendant or tenant besides his costs, three dollars, where his place of abode is at the distance of twenty-five miles or under, from the place of holding the said District Court, and where it is more, ten cents for every mile above twenty.

Rules to be observed in the prosecution of suits.

SEC. XXXVI. ONE month after the plaintiff hath filed his declaration, he may give a rule to plead with the clerk, and if the defendant shall not plead accordingly at the expiration of such rule, the plaintiff may enter judgment for his debt, or damages and costs.

SEC. XXXVII. ALL rules to declare, plead, reply, rejoin, or for other proceedings, shall be given regularly from month to month, shall be entered in a book to be kept for that purpose, and shall expire on the succeeding rule day.

SEC. XXXVIII. NO plea in abatement shall be admitted or received, unless the party offering the same, shall prove the truth thereof, by oath or affirmation, as the case may require. And no plea of *non est factum* offered by the person charged as the obligor or grantor of a deed, shall be admitted or received, unless the truth thereof shall in like manner be proved by oath or affirmation.

SEC. XXXIX. AND where any person other than the obligor shall be defendant, such defendant shall prove by oath or affirmation, that he or she verily believes, that the deed on which the action is founded, is not the deed of the person charged as the obligor or grantor thereof; in which last mentioned case, the plea of *non est factum* shall not be admitted or received without such oath or affirmation. And where a plea in abatement shall upon argument be adjudged insufficient, the plaintiff shall recover full costs, to the time of over-ruling such plea, a lawyer's fee only excepted.

SEC. XL. THE plaintiff in replevin, and the defendant in all other actions, may plead as many several matters, whether of law or fact, as he shall think necessary for his defence.

SEC. XLI. ON the return of the *pluries*, that the defendant is not to be found, the court instead of the process to outlawry formerly used, may order a proclamation to issue, warning the defendant to appear at a certain day therein named, or that judgment will be rendered against him, which proclamation shall be published at three successive court days, at the door of the courthouse of the county to which the last process was directed, and also three times in the Virginia Gazette; and if the defendant fails to appear pursuant to such proclamation, the same proceedings shall be had, and the same judgment given, as in other cases of default.

Proceedings on a *pluries* returned "not to be found."

SEC. XLII. ALL judgments by default for want of an appearance or special bail, or pleas as aforesaid, and non-suits or dismissions obtained in the office, and not set aside on some day of the next succeeding District Court, shall be entered by the clerk as of the last day of the term, which judgment shall be final in actions of debt, founded on any specialty, bill or note in writing, ascertaining the demand, unless the plaintiff shall choose in any such case to have a writ of enquiry of damages, and in all other cases the damages shall be ascertained by a jury, to be impannelled and sworn to enquire thereof, as is herein after directed.

Judgments by default, non-suits, &c. when to be entered.

Plaintiff in judgment by default may have a writ of enquiry.

Rules for docketing causes.

SEC. LXIII. BEFORE every District Court, the clerk shall enter in a particular docket, all such causes, (and those only) in which an issue is to be tried, or enquiry of damages to be made, or a special verdict, case agreed, demurrer, or other matter of law is to be argued, in the same order, as they stand in the course of proceeding, setting as near as may be, an equal number of causes to each day.

SEC. XLIV. IT shall be lawful for the District Courts, on giving judgment in any case removed by appeal, writ of *error*, *supersedeas* or *certiorari*, from the inferior courts, either for the appellant, appellee, plaintiff or defendant, and in any cause originating in the District Courts, where the verdict or judgment shall be given for the defendant, to award costs to the party or parties, in whose favor such judgment shall be given; and on all motions it shall be lawful for the said courts to give or refuse costs at their discretion: and in all other causes where the plaintiff shall recover debt or damages, the costs shall be governed by law.

In what cases the court may award costs.

In what to be governed by law.

When certiorari's may be granted without notice.

Proceedings to be read and signed.

Complete records to be made of causes determined.

Proceedings on writs of scire facias for renewal of judgments, in certain cases.

Certiorari how to be obtained.

Rule respecting suits remanded.

Punishment of false swearers.

No writ of error or superseas before final judgment; or after five years from the date thereof: saving the rights of infants, &c.

Appeals to the district courts in certain cases.

How superseas may be obtained.

Writs of error or superseas not to be allowed unless judgment amounts to a certain sum.

SEC. XLV. A *certiorari* to remove proceedings on a forcible entry or detainer, or for any other purpose, except the removal of a suit from an inferior court, may be granted without notice.

SEC. XLVI. FOR preventing errors in entering up the judgments of the said courts, the proceedings of every day shall be drawn up at large, by the clerk against the next sitting of the court, when the same shall be read in open court, and such corrections as are necessary, being made therein, they shall be signed by the presiding judge, and carefully preserved among the records. On the last day of each court, the proceedings therein shall be drawn up, read, corrected, signed and preserved as aforesaid.

SEC. XLVII. WHEN any cause shall be finally determined, the clerk of the District Court, shall enter all the pleadings, and papers filed as evidence therein, and the judgment thereupon, so as to make a complete record thereof, and those wherein the title of lands is determined, shall be entered in a separate book to be kept for that purpose.

SEC. XLVIII. ON writs of *scire facias* for renewal of judgments, no judgment shall be rendered on the return of two *nihils*, unless the defendant resides in the district, or unless he be absent from the commonwealth, and have no known attorney within the same. But such *scire facias* may be directed to the sheriff of any county in this commonwealth, wherein the defendant or his attorney shall reside or be found, which being returned served, the court may proceed to judgment thereon, as if the defendant had resided in the district.

SEC. XLIX. IF any person or persons shall desire to remove any suit depending in any inferior court, into the District Court, provided the same be originally cognizable therein, a *certiorari*, for such removal, may be granted by the District Court, for good cause shewn upon motion, and ten days previous notice thereof, given in writing to the adverse party, or in vacation, the party desiring such writ, shall by petition to the judges of the General Court, set forth his or her reasons, and make oath before a magistrate of the truth of the allegations, of such petition, whereupon any judge of the said court, may, under his hand, order the *certiorari* to issue, and direct the penalty of the bond, to be taken previous thereto, or may reject such petition, as to him shall seem just; provided that ten days previous notice of the time and place of applying for such writ, be given in writing to the adverse party, upon which order of the judges, the clerk shall issue the *certiorari*. Provided, that the party shall enter into bond with sufficient security, in the penalty so directed, with condition for satisfying all money or tobacco and costs, which shall be recovered against the party in such suit; but if any suit so removed by *certiorari*, shall be remanded to the inferior court, by *procedendo* or otherwise, such cause shall not afterwards be removed to the District Court, before judgment shall be given therein in the inferior court.

SEC. L. THE clerks of the District Courts, shall carefully preserve all such petitions for writs of *certiorari*, with the affidavits thereto, in the office; and if any person in such affidavit, shall wilfully make a false oath, and be thereof convicted, upon a prosecution commenced within twelve months after the offence committed, such offender shall suffer the pains and penalties directed for wilful and corrupt perjury.

SEC. LI. NO writ of error or *superseas* shall be granted in any case, until a final judgment in the county or other inferior court.

SEC. LII. NO *superseas* or writ of error, shall be granted to any judgment in the district or county, or other inferior court, after the expiration of five years, from and after the date thereof, saving the rights of infants, *femes covert*, persons *non compos*, in prison or beyond seas, until the expiration of two years after the disability ceases.

SEC. LIII. WHERE any person or persons, body politic or corporate, shall think themselves aggrieved by the judgment, or sentence of any county court or court of Hustings, in any action, suit or contest whatsoever, where the debt or damages, or other thing recovered or claimed in such suit, exclusive of the costs, shall be of the value of one hundred dollars, or three thousand pounds of tobacco or upwards, or where the title or bounds of land shall be drawn in question, or the contest shall be concerning mills, roads, the *probat* of wills, or certificates for obtaining administration, such person or persons, body politic or corporate, may enter an appeal from such judgment or sentence, to the first day of the next court of the district, in which such county is.

SEC. LIV. THE party praying a writ of *superseas*, shall petition the District Court for the same, pointing out the errors he means to assign in the proceedings, and procure some attorney practising in such court respectively, to certify, that in his opinion there is sufficient matter of error for reversing the judgment, whereupon such courts in their session, or any judge of such court respectively in vacation, may order such writ to be issued, or reject the petition, as to them shall seem just.

SEC. LV. WRITS of error or *superseas*, may be granted by a District Court, or any judge of the General Court, to a judgment of a county court, where such judgment shall be of the value of thirty three dollars, and thirty three cents, or one thousand pounds of tobacco, or upwards.

SEC. LVI. BEFORE granting any appeal, or the issuing of any writ of *error* or *superfedeas*, the party praying the same, shall enter into bond with sufficient security, in a penalty to be fixed by the court or judge granting the same, with condition to pay the amount of the recovery, and all costs and damages awarded, in case the judgment or sentence be affirmed. Where several appeal, or obtain a writ of *error* or *superfedeas*, bond and security given by any party, shall be sufficient.

Bond and security to be given on obtaining an appeal, writ of error, &c. Sufficient, if given by one of several parties. Judgment on reversal.

SEC. LVII. IF upon hearing any writ of *error* or *superfedeas*, the judgment of the inferior court be reversed in whole or in part, the District Court shall enter such judgment thereupon, as ought to have been entered in the Inferior Court.

SEC. LVIII. BONDS to be given in court for obtaining writs of *error*, *superfedeas*, *certiorari*, appeals, or any other cause, shall be valid and sufficient if given by a responsible person and security, although the party interested in the event of the suit be not an obligor.

Bonds on appeals, &c. may be given by any responsible person.

SEC. LIX. WHERE the defendant in any personal action, appeals, or obtains such writ of *error* or *superfedeas*, if the judgment be affirmed, the damages besides costs shall be ten *per centum per annum* upon the principal sum and costs, recovered in the inferior court, in satisfaction of all damages or interest.

Damages upon affirmance.

SEC. LX. IN real or mixed actions the damages shall be thirty-three dollars and thirty-three cents, or two thousand pounds of tobacco besides costs, and where the plaintiff appeals in any action, if the judgment be affirmed, and in all controversies about mills, roads, probat of wills, or certificates for administration, if the sentence of the Inferior Court be affirmed, the party appealing shall pay to the other all costs.

SEC. LXI. IF a record on an appeal, writ of *error* or *superfedeas*, be not delivered to the clerk of the District Court before or during the second term of such court after the same was granted, the same shall not be received at any time thereafter, unless good cause be shewn to the court to the contrary; and after such dismissal, no writ of *error* or *superfedeas*, shall be allowed.

Rule respecting filing records on appeals.

SEC. LXII. IT shall be the duty of the Attorney General to nominate and appoint proper persons to prosecute for the commonwealth, in such courts as he cannot attend himself.

Attorney General to appoint deputies. Lists of fines imposed by the courts to be sent to the sheriffs; to be collected by them, and copies of such lists to be sent to the auditor.

SEC. LXIII. THE clerk of each District Court shall annually before the last day of January, transmit to the sheriff of each county within the district, a list of all fines imposed by the District Court in the year next preceding to the use of the commonwealth, on persons residing in such county; and the sheriffs shall respectively proceed to collect, levy, account for, and pay the same in like manner, and subject to the same remedy and proceedings against them for default, as is or shall be directed in case of public taxes, being allowed in their accounts for insolvents; and five *per centum* commissions; and the said clerks shall severally transmit copies of such lists to the auditor, to enable him to call the sheriffs to account.

SEC. LXIV. THE said courts shall have jurisdiction respectively in all causes, matters and things in the District Courts respectively depending at the commencement of this act, and no discontinuance shall take place in any case whatsoever, civil or criminal, which shall be depending in any District Court at the commencement of this act, by reason of the passing thereof, but the same shall be therein tried and determined as if this act had never been made.

Jurisdiction as to causes now pending.

SEC. LXV. ALL and every act and acts, clauses and parts of acts, containing any thing within the purview of this act, shall be, and are hereby repealed.

Former acts repealed.

SEC. LXVI. THIS act shall commence in force on the first day of January, one thousand seven hundred and ninety-three.

Commencement of this act.

CHAPTER XV.

An ACT reducing into one, the several Acts concerning the County and other inferior Courts of this Commonwealth.

[Passed December the 3d, 1792.]

SECTION I. **B**E it enacted by the General Assembly, That in every county, city, corporation, and borough within this commonwealth, in which the power of holding courts hath been heretofore; or shall hereafter be vested by law, a court, to be denominated the court of such county, city, corporation, or borough, respectively, shall hereafter continue to be held by the justices of such counties, and the magistrates of such cities, corporations and boroughs respectively, at the times and places, and in the manner herein-after directed; any four of which justices or magistrates shall constitute a court, except in such cases where a greater number may by any law be directed.

County and corporation courts to be held by the justices thereof. Any four of them to constitute a court.

Justices shall
be sworn.

Their oath.

Oath of a justice in chancery.

Penalty for acting without qualifying.

Courts may be adjourned from day to day for six days.

How may be adjourned when the justices do not attend.

Suits not to be discontinued by the justices failing to hold court.

Jurisdiction of the court.

Certain causes excepted.

Causes determinable before one justice. But he may not issue execution against the defendant's body.

Quarterly sessions.

SEC. II. EVERY person appointed a justice of the peace for any county or corporation, before his entering upon and executing the said office, shall publicly in the courthouse of his county or corporation, and on a court-day, take the oath of fidelity to the commonwealth, as also the following oaths, to wit:—"You shall swear that as a justice of the peace, in the county (or corporation) of _____, in all articles in the commission to you directed, you shall do equal right to the poor and to the rich, to the best of your ability and judgment, and according to law; and you shall not be of counsel of any quarrel hanging before you, and issues, fines, and amercements that shall happen to be made, and all forfeitures which shall fall before you, you shall cause to be entered without any concealment or embezzling; you shall not let, for gift, or other causes, but well and truly you shall do your office of a justice of the peace, as well within your county (or corporation) court, as without, and you shall not take any fee, gift, or gratuity, for any thing to be done by virtue of your office; and you shall not direct or cause to be directed, any warrant by you to be made to the parties; but you shall direct them to the sheriff or other officer of the commonwealth, or other indifferent person, to do execution thereof. SO HELP YOU GOD." The oath of a justice of the county or corporation courts in chancery:—"You shall swear that well and truly you will serve the commonwealth in the office of a justice in the county (or corporation) court of _____, in chancery, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to equity and good conscience, and the laws and usages of the commonwealth of Virginia, without favor, affection, or partiality. SO HELP YOU GOD." And if any person whatsoever shall presume to execute the office of a justice of the peace, or magistrate of a county or corporation court, without first qualifying himself in the manner by this act before required, he shall for every such offence, forfeit and pay one thousand dollars, one moiety to the use of the commonwealth, and the other moiety to the informer; to be recovered by action of debt, in any court of record in this commonwealth.

SEC. III. IF the business of any of the said courts cannot be determined on the court day, the justices may adjourn from day to day not exceeding six days, until all causes and controversies then depending before them, shall be heard and determined, or otherwise continued in the manner herein-after directed.

SEC. IV. IF a sufficient number of justices should not attend to form a court on the first day of any court, or any subsequent day thereof, it shall and may be lawful for any one justice to adjourn the court from day to day, for the space of three days; and if there shall not be a sufficient number convened at four o'clock in the afternoon of the fourth day, all causes, matters and things therein depending, shall stand continued to the next succeeding court. If from any cause the court shall not sit on any day in a term after it shall have been opened, there shall be no discontinuance, but so soon as the cause is removed, the court shall proceed to business until the end of the term, if the business depending before them be not sooner dispatched. No discontinuance shall take place in any case by reason of the justices failing to make a court, or to adjourn; but in such cases, all suits, process, matters and things depending, shall stand continued, and all returns and appearances, shall be made to the next succeeding court in course, in the same manner as if such succeeding court had been the same court to which such process stood continued, or such returns or appearances should have been made. And all recognizances, bonds and obligations, for appearance, and all returns, shall be of the same force and validity for the appearance of any person or persons at such succeeding court, as if the next succeeding court had been expressly mentioned therein. And all causes depending upon the docket, and undetermined at any adjournment to the court in course, shall stand continued in the same order to such court, without any fee to the clerk for the continuance of such as shall not then be called over.

SEC. V. THE justices of every such court, or any four of them, as aforesaid, shall and may take cognizance of, and are hereby declared to have power, authority and jurisdiction, to hear and determine all causes whatsoever now depending, or which shall hereafter be brought in any of the said courts, at the common law, or in chancery, within their respective counties and corporations, and all such other matters as by any particular statute, is or shall be made cognizable therein, except such criminal causes where the judgment upon conviction shall be for the loss of life or member, and except the prosecution of causes to outlawry against any person or persons, and except also all causes of less value than five dollars, or two hundred pounds of tobacco, other than prosecutions on any penal law of this commonwealth; and also such cases as are by law exclusively vested in any other tribunal.

SEC. VI. WHEN the cause of action shall not exceed five dollars, or two hundred pounds of tobacco, the same is hereby declared to be cognizable, and finally determinable by any one justice of the peace, who may give judgment, and thereupon award execution against the goods and chattels of the debtor, or party against whom such judgment shall be given, which shall be executed and returned, by the sheriff or constable to whom directed, in the same manner, as other writs of *fiery facias*, are to be executed and returned, but no execution shall be by him granted against the body of the defendant.

SEC. VII. THE said courts shall be held at the several respective places, at present assigned by law for that purpose, or at such place or places, as shall be hereafter lawfully appointed, on the several days for holding courts heretofore in such counties or corporations respectively appointed by law, in the months of March, May, August, and November, in every year,

except as herein after excepted, for the trial of all presentments, criminal prosecutions, suits at common law and in chancery, where the sum exceeds twenty dollars, or eight hundred pounds of tobacco, now depending, or which hereafter shall be brought in any of the said courts, and shall continue for the space of six days, unless the business be sooner determined; which sessions of the said courts shall be denominated the quarterly sessions of such courts respectively. *Provided always*, that in the counties of Montgomery, Washington, Russell, and Wythe, such courts shall be held on the days now by law respectively appointed for holding courts in the months of April, June, September and November; and in the counties of Henry and Cumberland, in the months of February, April, July and October; and in the counties of Norfolk, Princess Anne, Northampton, Nansemond, Stafford, Spotsylvania, Fairfax, Loudoun, Prince William, Berkeley, and Ohio, and in the borough of Norfolk, in the months of March, June, August, and November; and in the county of Pendleton, in the months of April, June, September and December; and in the county of Hampshire, in the months of March, May, September and November, in every year; and in the counties of King George and Frederick, in the month of June, annually, instead of the month of May.

SEC. VIII. A MONTHLY session of the said courts shall be held in like manner, on the days heretofore by law appointed for holding courts in such counties and corporations respectively, in every month in which there shall not be a quarterly session for the trial of petitions for small debts, or for trover and conversion, or detention of any thing not exceeding twenty dollars, or eight hundred pounds of tobacco, for proving and recording deeds and wills, and granting certificates of probat and administration, and for the transaction of all business, which by law is or shall be made cognizable in a county or corporation court, except such as has been herein assigned to the court of quarter sessions. *Provided nevertheless*, that injunctions in chancery may be granted or dissolved, judgments on attachments against absconding debtors, where the property attached shall not be replevied, entered up, and all matters touching the breach of the peace, and good behaviour, motions on replevy bonds, and against sheriffs and other public officers and defaulters, may be heard and determined either at a monthly or quarterly court.

SEC. IX. ALL original process to bring any person or persons to answer in any action or suit, indictment or information in the said courts, and all subsequent process thereon, all process in chancery awarded by the said court, and all other writs of what nature soever, shall be issued and bear teste by the clerk of such courts respectively, and made returnable to the first day of the next succeeding quarterly term; except *subpoenas* of injunction, attachments, petitions and *subpoenas* for witnesses, which shall be returnable to the next succeeding court, be the same monthly or quarterly, as the case may require.

SEC. X. SPECIAL bail may be taken in court at the quarterly sessions, or at the monthly courts.

SEC. XI. THE county and corporation courts, at their quarterly sessions, shall have similar jurisdiction with the High Court of Chancery, and shall proceed in the same manner against the estate and effects of persons residing out of this state, or absconding to avoid being served with the process of the said court; and may hear and determine all *caveats* against grants for lands lying within the jurisdiction of the said courts respectively.

SEC. XII. ALL writs of execution upon judgments obtained in the quarterly or monthly courts, and all executions and other process to enforce any decree in chancery, obtained in either of the said courts, may be made returnable to the first day of a quarterly or monthly court, provided there be not less than fifteen, nor more than ninety days between the teste and return of such execution or process.

SEC. XIII. FROM time to time, forever hereafter, the court of every county and corporation within this commonwealth, shall cause to be erected and kept in repair, (or where the same shall be already built, shall maintain and keep in good repair) within each respective county and corporation, and at the charge of such county or corporation, one good and convenient courthouse of stone, brick, or timber, and one common jail and county prison, well secured with iron bars, bolts, and locks, and also one pillory, whipping-post and stocks; and where land shall not be already provided and appropriated for that purpose, such court may purchase two acres, whereon to erect the said public buildings, for the use of their county or corporation, and for no other use whatsoever. And to every courthouse, already built and established, two acres of the land, built upon and adjacent thereto, not having any house, orchard, or other immediate convenience thereon, shall be and remain appropriated to such courthouse, and the fee simple thereof, is hereby declared to be in the court of the same county, and their successors, to the use of such county as aforesaid; but where a courthouse is already built in any city or town, the land now laid off for the same, and the other public buildings shall be judged and held to be sufficient. And if the justices of any county or corporation court, shall at any time hereafter fail to keep and maintain a good and sufficient prison, pillory and stocks, every member of the court, so failing, shall forfeit and pay ten dollars, one moiety to the commonwealth, the other moiety to the informer; to be recovered with costs, by action of debt or information, in any court of record of this commonwealth. And moreover, the court so failing, shall be liable to the action of the sheriff, from time to time, for all damages recovered against him, upon any escape for want of a sufficient prison; and such sheriff or his executors, or administrators, shall and may sue for the same by action of debt or information, brought in the General Court against the justices so failing, or the survivors of them, and upon recovery in such suit, the

Monthly sessions.

Concurrent jurisdiction of monthly and quarterly courts.

Method of issuing and returning process.

Special bail, when it may be taken in court.

Proceedings against absent defendants, as in the High Court of Chancery.

May hear and determine caveats against grants for land.

Executions, when returnable.

Courthouses and other public buildings shall be erected and kept in repair.

Penalty for failing to keep a sufficient prison, &c.

judges of the said court, are hereby empowered and required to proportion how much every particular justice of the court so failing, who shall be then living, and the executors or administrators of such as shall be deceased, shall pay respectively, and to enter up judgment accordingly, whereupon one or more executions shall and may be issued.

Public jail in
Williamsburg
to be used as
the jail there-
of, and of
James City
county.
Prison rules to
be assigned.

SEC. XIV. ALL persons taken on civil or criminal process in the county of James City, may be committed to the public jail in the city of Williamsburg, in like manner as if the same was within the limits of the said county; and the city of Williamsburg shall have a right to use the public jail therein, as the jail of the said city, and the district jailor therein shall act as keeper of the jail of the said city.

SEC. XV. THE justices of every county and corporation, shall be, and they are hereby empowered and required, to mark and lay out the bounds and rules of their respective county and corporation prisons, not exceeding ten acres of land, adjoining to such prison, which marks and bounds shall be recorded, and renewed from time to time, as occasion shall require; and every prisoner not committed for treason or felony, giving good security to keep within the said rules, shall have liberty to walk therein, out of the prison for the preservation of his or her health, and keeping continually within the said bounds, shall be adjudged in law a true prisoner.

Ducking stool
may be provid-
ed.

SEC. XVI. AND if the court of any county or corporation, shall at any time think fit, they are hereby authorized and empowered, at the charge of their county or corporation, to cause a ducking-stool to be built in such convenient place as they shall direct.

Process to be
executed three
days before re-
turn day.
When return-
able, if issued
within three
days before
the next court
day.
If issued or re-
turnable in any
other manner
to be void.
Criminal ca-
ses excepted.
Process in suits
against the go-
vernor, coun-
cillors, judges
and sheriffs.

SEC. XVII. ALL process issuing from such courts to bring any person to answer in any suit in such courts, shall be executed three days at least before the day therein mentioned for the return thereof; and if any process shall be delivered to the sheriff or officer so late that he cannot execute the same three days before the return day, such process shall not be executed, but the officer shall return the truth of the case. And if any original process be taken out within three days before the next court day, such process shall be returnable to the next court after the said three days, and not otherwise; and all process issued or returnable, in other manner than is herein before directed, shall be null and void. *Provided nevertheless*, That any justice or justices of peace, by his or their warrant, may cause any traitor, felon, pirate, rioter, breaker of the peace, or other criminal offender, to be apprehended and brought before the same, or some other justice or justices, or before the next court, although there be not three days between the execution of such warrant and the return thereof.

Criminal ca-
ses excepted.
Process in suits
against the go-
vernor, coun-
cillors, judges
and sheriffs.

SEC. XVIII. IN all actions or suits which may be commenced against the Governor of this commonwealth, any member of the Privy Council, any of the judges of the superior courts, or the sheriff of any county, during his continuance in office, instead of the ordinary process, a summons shall issue to the sheriff, or other proper officer, reciting the cause of action, and summoning such defendant to appear and answer the same, on the proper return day in the next court; and if such defendant, being summoned, or after a copy shall have been left at his house ten days before the return day, shall not appear to answer the same, the court shall proceed against such defendant, in the same manner as if he had been taken upon a *capias ad respondendum*. *Provided always*, That after judgment and the return of a *fieri facias* by the sheriff of that county in which the defendant in any such case resides, that no effects, or not sufficient are to be found in his bailiwick to satisfy the said judgment, a *capias ad satisfaciendum* may be issued, as in other cases.

In certain suits
plaintiff to en-
dorse on the
writ the true
species of ac-
tion;

In which the
sheriff may take
the engage-
ment of an at-
torney to ap-
pear for defen-
dant;
but shall not
commit him
for want there-
of or of bail.

Any justice
may direct bail
to be taken.

Directions to
the sheriff
where bail is
required,

SEC. XIX. IN all actions to recover the penalty for breach of any penal law, not particularly directing special bail to be given, in actions of slander, trespass, assault and battery, actions on the case for trover, or other wrongs, and all personal actions, except such as shall be herein after particularly mentioned, the plaintiff or his attorney, shall, on pain of having his suit dismissed with costs, endorse on the original writ, or subsequent process, the true species of action, that the sheriff to whom the same is directed, may be thereby informed whether bail is to be demanded on the execution thereof; and in the cases before mentioned, the sheriff may take the engagement of an attorney practicing in the county court, endorsed on the writ that he will appear for the defendant or defendants, and such appearance shall be entered with the clerk in the office on the first day after the end of the court to which such process is returnable. And although no such engagement of an attorney shall be offered to the sheriff, he shall nevertheless be restrained from committing the defendant to prison, or detaining him in his custody for want of appearance bail; but the sheriff in such case shall return the writ executed, and if the defendant shall fail to appear thereto, there shall be the like proceeding against him only, as is herein after directed against defendants and their appearance bail, where such is taken. *Provided always*, That any justice of the peace, in actions of trespass, assault and battery, trover, and conversion, and in actions on the case, where, upon proper affidavit, or affirmation, it shall appear to him proper, that the defendant or defendants should give appearance bail, may, and he is hereby authorized to direct such bail to be taken by endorsement on the original writ, or subsequent process; and every sheriff shall govern himself accordingly.

SEC. XX. IN all actions of debt founded upon any writing obligatory, bill, or note in writing, for the payment of money or tobacco, all actions of covenant or detinue, in which cases the true species of action shall be endorsed on the writ, as before directed, and that appearance bail is to be required, the sheriff shall return on the writ, the name of the bail by him

taken, and a copy of the bail-bond to the clerk's office before the day of appearance; and if the defendant shall fail to appear accordingly, or shall not give special bail, being ruled there-to by the court, the bail for appearance may defend the suit, and shall be subject to the same judgment and recovery, as the defendant might or would be subject to, if he had appeared and given special bail; and in actions of detinue the bail-piece shall be so changed, as to subject the bail to the restitution of the thing, whether animate or inanimate sued for, or the alternative value, as the court may adjudge.

When bail may defend the suit.

How bail is to be given in detinue.

SEC. XXI. AND if the sheriff or other officer shall not return bail, and the copy of the bail-bond, or the bail returned shall be adjudged insufficient by the court, and the defendant shall fail to appear and give special bail, if ruled thereto, in such case the sheriff or other officer may have like liberty of defence, and shall be subject to the same recovery as is provided in the case of appearance bail. And if the sheriff or other officer depart this life before judgment be confirmed against him, in such case the judgment shall be confirmed against his executors or administrators, or if there shall not be a certificate of *probat* or administration granted, then it may be confirmed against his estate, and a writ of *fiat facias* may in either case be issued; but the plaintiff shall object to the sufficiency of the bail during the sitting of the court next succeeding that to which the writ is returnable, or in the office on the first or second rule day, and at no time thereafter.

Remedy against sheriff neglecting to return sufficient bail.

Exceptions to bail when to be made.

SEC. XXII. AND upon appearance of the defendant in any personal action, where the plaintiff shall move that the defendant may be held to special bail, the court may if they see cause, rule him to give bail accordingly, or commit him in custody of the sheriff or other officer till such bail be given; and the person and persons becoming special bail, shall be liable to the judgment and recovery against such defendant, unless he render his body in execution in discharge of his bail.

Defendant upon appearance may be ruled to give special bail.

SEC. XXIII. NO bail shall be demanded on a writ of *capias ad respondendum*, which shall be issued against a resident of one county in any other, until a *non est inventus* has been returned in the county or corporation in which the defendant resides, upon a *capias* issued in the same suit against such defendant, and every writ issued contrary thereto without an endorsement of "no bail required," shall be voidable at any time before issue joined, or judgment by default, *nil dicit* or *non sum informatus* thereon, but not afterwards. *Provided*, that no such writ issuing from the county or corporation in which the cause of action accrued, shall be voidable by reason of bail being required thereon.

No bail to be demanded of a resident in one county who is sued in another, until a return of *non est inventus*. *Provided*.

SEC. XXIV. ANY justice of the peace, when the courts are not sitting, may take recognizance of special bail in any action therein depending, which shall be returned by the justice taking the same to the clerk of the court, before the next succeeding quarterly court, to be filed with the papers in such action.

Any justice may take recognizance of special bail.

SEC. XXV. IF the plaintiff or his attorney shall except to the sufficiency of the bail so taken by a justice out of court, notice of such intended exception shall be given to the defendant or his attorney, at least five days previous to the day at which such exception shall be taken; and if such bail shall be adjudged insufficient by the court, the recognizance thereof shall be discharged, and such proceedings shall be had, as if no such bail had been taken.

Exceptions to bail, how to be made.

SEC. XXVI. The same proceedings shall be had against the common bail and sheriff, or other officer in any suit, or either of them, their executors or administrators, and they or either of them may have the same remedy against the defendant, or his executors or administrators, in the county and corporation courts at their quarterly sessions, as is directed to be had in any District Court in such cases.

The same proceedings against bail and sheriffs as in the District courts.

SEC. XXVII. ALL imparlances to be taken, and pleadings to be filed, both in common law and in chancery, until an issue is joined, or interlocutory decree or judgment obtained, shall be done at rules to be held monthly in the clerk's office, on such days as the courts at their respective quarter sessions, shall appoint; which rules shall be distinctly entered in a book, to be kept for that purpose, and the clerk shall be allowed the same fees for entering such rules, as if the same had been made in court.

Rules to be held monthly in clerk's office; Rule days to be appointed by the courts.

SEC. XXVIII. ALL rules to declare, plead, reply, rejoin, and for other proceedings, shall be given from month to month, and shall be made and entered with the clerk of the court, in the same manner as rules are made and entered with the clerks of the District Courts, in suits depending in them. *Provided nevertheless*, That the court may at their quarterly session next after any of the said rules and proceedings have been had in the clerk's office, for good cause to them shewn, set aside any of the said rules and proceedings, and make such order concerning the same, as to them may appear just and right.

Rules to be given from month to month in the office; but may be set aside at the quarterly sessions.

SEC. XXIX. WHERE any final judgment shall be entered up in the office against any defendant or defendants and their securities, or against any defendant or defendants and sheriff, or other officer by default, execution may issue thereon after the next succeeding quarterly court, unless the same be set aside during such court, in like manner as office judgments in the District Courts may be set aside; and all office judgments so set aside, shall be immediately put at the end of the issue docket.

Office judgments when to be set aside.

Directions
concerning
writs of *scire
facias* to re-
vive judgments

SEC. XXX. ON writs of *scire facias* for renewal of judgments, no judgment shall be rendered on the return of two nighs, unless the defendant reside in the county or corporation, or unless he be absent from the commonwealth, and have no known attorney within the same. But such *scire facias* may be directed to the sheriff or other officer of any county or corporation in this commonwealth, wherein the defendant or his attorney shall reside, or be found; which being returned served, the court may proceed to judgment thereon as if the defendant had resided in the county or corporation.

Rules in dock-
eting causes.

SEC. XXXI. THE clerk shall proportion the causes upon the docket, from the first day of the court to the sixth, both inclusive, if in his opinion so many days will be expended in trying the causes ready for trial, and issue *subpoenas* for witnesses to attend the days to which the causes stand for trial. He shall docket the causes in order as they are put to issue, and no cause shall be removed from its place on the docket, unless where the plaintiff at the calling the same, be unprepared for trial, in which case, and no other, shall the cause be put at the end of the docket.

Process where
the defendant
is not found.

SEC. XXXII. AND for the better ascertaining what process may be sued out, where the sheriff or other officer returns that the defendant is not to be found in his bailiwick; *It is hereby further enacted*, That where any sheriff, or other officer, shall make such return, the plaintiff or plaintiffs in any civil action, shall and may sue out an attachment against the estate of such defendant, returnable as herein-before is directed for the returns of original and other subsequent process thereupon, to force an appearance, or an *alias* or *pluries capias*, at the election of the plaintiff or plaintiffs; and if the sheriff or other officer, shall return any goods by him attached, the plaintiff shall file his declaration, and be entitled to a judgment for his whole debt, and the goods so attached shall remain in custody of the sheriff till such judgment obtained, and then be sold and disposed of, in the same manner as goods taken in execution upon a writ of *scire facias*; and if the judgment shall not be satisfied by the goods attached, the plaintiff may have an execution for the residue. *Provided always*, That all goods so attached, shall and may be replevied by the defendant's giving bond and security to the sheriff or other officer attaching the same, in like manner as by law is directed on the execution of mesne process, or by the defendant's appearance, and putting in good bail, if ruled by the court to give special bail. But no sheriff shall return upon any writ to him directed, that the defendant is not found in his bailiwick, unless such sheriff or his officer, shall have actually been at the dwelling-house, or place of abode of such defendant, and not finding him shall have there left an attested copy of the same writ or process; and where any defendant shall be a known inhabitant of another county, and not of the county of that sheriff to whom the process shall be directed, such sheriff shall return the truth of the case, but not that the person is not found in his county, and thereupon such process issued from any county court clerk's office, as to such defendant, shall abate and be dismissed.

When the sher-
iff may return
that the defen-
dant is not
found.

Declarations,
&c. to be pre-
served in the
clerk's office.

SEC. XXXIII. THE clerk of the court shall carefully preserve the declarations, pleas, evidences, and all other papers relating to any cause in court, and they shall be all filed together in the office.

In land causes
pleadings to
be in writing
and complete
records to be
made up.
Minutes of
proceedings to
be read in
court and sign-
ed.

SEC. XXXIV. IN all cases where the title or bounds of any estate in land is determined, the pleadings shall be all in writing, and shall be entered at large with the judgment thereupon, in particular books kept for that purpose only.

SEC. XXXV. AND for preventing errors in entering up the judgments of the court, the justices, before every adjournment, shall cause the minutes of their proceedings to be publicly read by the clerk, and corrected where necessary, and then the same shall be signed by the first justice in commission then sitting; which minutes so signed, shall be taken in a book, and carefully preserved among the records; and no proceedings or judgments of any court, shall be of force, or valid, until the same be so read and signed.

Suits shall not
abate for want
of form.

SEC. XXXVI. AND for prevention of delay and vexation, by dilatory pleas, *It is hereby further enacted and declared*, that in all personal actions, where the declaration shall plainly set forth sufficient matter of substance for the court to proceed upon the merits of the cause, the suit shall not abate for want of form; and that where a plea in abatement shall be pleaded in any action, and upon argument the same shall be adjudged insufficient, the plaintiff or plaintiffs in such action shall recover against the defendant or defendants full costs, to the time of overruling such plea, including the costs of that court, a lawyer's fee only excepted.

Costs upon a
plea in abate-
ment overruled.

Method of re-
covering debts
by petition.

SEC. XXXVII. ANY debt or penalty, amounting to more than five dollars, or two hundred pounds of tobacco, and not exceeding twenty dollars, or eight hundred pounds of tobacco, may be demanded by petition to the court of a county, city, or borough. The clerk of the court shall draw the petition, stating therein how the debt became due, or by breach of what act of Assembly the penalty was incurred, and shall issue a summons directed to the sheriff or other proper officer, commanding him to summon the defendant to appear and answer the petition; and the defendant being summoned ten days at least before the return day, and being at the same time served with a copy of the petition, together with a copy of the account which shall be filed, when the debt shall have arisen by account, the court shall and may hear and determine the matter in dispute in a summary way, and give such judgment as shall appear to be just.

SEC. XXXVIII. ANY person may, by petition, to be served and tried in like manner, demand and recover goods detained, or the value of them, and damages for the detention, or damages for goods found by the defendant, and converted to his use, where the goods with the damages are not of greater value than twenty dollars, or eight hundred pounds of tobacco. Whoever shall bring any other action than a petition, if it appear, either by his own shewing in the declaration, or by the verdict of a jury, that he might have brought a petition by this act, shall be non-suit.

Detinue and trover for goods, or the value not exceeding twenty dollars shall be brought by petition.

SEC. XXXIX. AND be it further enacted, That in all suits in the county and corporation courts in chancery, the following rules and methods shall be put in practice and observed, to wit :

Plaintiff proceeding otherwise shall be nonsuit.

SEC. XL. THE complainant shall file his bill on the first rule day after the return of the *subpoena* executed, or upon the first appearance of the defendant, upon pain of having the same dismissed by the defendant; and if he shall fail to file the same within three months from the time of such return, the suit shall stand dismissed with costs.

Rules to be observed in the prosecution of suits in chancery.

SEC. XLI. UPON the complainant's dismissing his bill, or the defendants dismissing the same for want of prosecution, the defendant shall recover his costs.

SEC. XLII. THE complainant may amend his bill before the defendant appears, or in a small matter, afterwards, without paying costs; but if he amend after appearance, and in a material point, whereby the defendant shall be put to any extraordinary costs, such costs shall be paid before the complainant shall be at liberty to amend his bill.

SEC. XLIII. IF any defendant shall not appear upon attachment returned executed, or being brought into court upon any such process, shall obstinately refuse to answer the complainant's bill, such bill shall be taken for confessed, and the matter thereof decreed accordingly.

SEC. XLIV. THE defendant shall file his answer at the next rules after his appearance, and bill filed, and if no answer be then put in, an attachment may be awarded, returnable to the next court; and if no answer be put in upon return of the attachment executed, the complainant's bill shall be taken for confessed, and the matter thereof decreed.

SEC. XLV. AND if the attachment be returned not executed, an attachment with proclamation shall be issued, and if upon the return thereof no answer shall be put in, the complainant's bill shall be taken for confessed, and the matter decreed as aforesaid.

SEC. XLVI. NO process of contempt shall issue without oath made of the service of the *subpoena*, unless the same be returned served by a sworn officer.

SEC. XLVII. IF the defendant does not file his answer within three months after the plaintiff shall have filed his bill, having also been served with the *subpoena* at least three months before the said time for filing his answer, the plaintiff may proceed to take his bill for confessed, and proceed in the same manner as in the case of an attachment returned executed, or he may have a general commission to take depositions, or he may move the court to bring in the defendant to answer interrogatories, at his election, and proceed on to hearing in the two last cases, as if the answer had been filed, and the cause was at issue: *Provided*, that the court, for good cause shewn, may allow the answer to be filed, and grant a further day for such hearing.

SEC. XLVIII. EVERY defendant shall be at liberty to swear to his answer, before any justice of the peace.

SEC. XLIX. WHEN any cross bill shall be preferred, the defendant or defendants in the first bill shall answer thereto, before the defendant or defendants in the second bill shall be compellable to put in his or their answer to such cross bill.

SEC. L. THE complainant shall reply or file exceptions, at the next rules after the defendant's putting in his answer; and if the complainant shall not then reply, nor file exceptions, his bill shall be dismissed with costs.

SEC. LI. WHEN the complainant files exceptions against the answer of any defendant or defendants, as insufficient, if the defendant puts in a sufficient answer at the next rules, the same shall be received without costs, but if the defendant's attorney insists on the sufficiency of the answer put in, and neglects or refuses to put in a sufficient answer, or shall put in another insufficient answer, the plaintiff may set down his exceptions, to be argued the next court; and after exceptions so filed, or any second insufficient answer put in, no further or other answer shall be received, but upon payment of costs.

SEC. LII. AND if upon argument, the complainant's exceptions shall be over-ruled, or the defendant's answer adjudged insufficient, the complainant shall pay to the defendant, or the defendant to the complainant, as the case shall be, such costs as shall be allowed by the court.

SEC. LIII. UPON every second answer adjudged insufficient, costs shall be doubled. If any defendant shall put in a third insufficient answer, which shall be so adjudged, such defendant shall be examined upon interrogatories, and committed till he shall perfectly answer those interrogatories, and pay costs.

SEC. LIV. IF the defendant after process of contempt, put in an insufficient answer, which shall be so adjudged, the complainant shall not be obliged to take out a new *subpœna*, but may go on to the attachment with proclamation, as if no answer had been put in.

SEC. LV. WHERE the complainant conceives sufficient matter to be confessed by the defendant's answer, he may set down the cause for, and proceed to hearing.

SEC. LVI. AFTER answer filed, and no plea in abatement to the jurisdiction of the court, no exception for want of jurisdiction shall ever afterwards be made, nor shall the High Court of Chancery, or any other court ever thereafter, delay or refuse justice, or reverse the proceedings for want of jurisdiction, except in cases of controversy respecting lands lying without the jurisdiction of such court, and also of infants and *femes covert*.

SEC. LVII. NO defendant shall be admitted to put in a rejoinder, unless it be filed at the next rules after replication put in, but the complainant may proceed to the examination of witnesses.

SEC. LVIII. AFTER an attachment with proclamation returned, no plea or demurrer shall be received, unless by order of court, upon motion.

SEC. LIX. IF the complainant conceives any plea or demurrer to be naught, either for the matter or manner of it, he may set it down to be argued; or if he thinks the plea good, but not true, he may take issue upon it, and proceed to proofs; and if such plea shall be adjudged false, the complainant shall have the same advantage as if the same plea were found false by verdict at the common law.

SEC. LX. IF a plea be pleaded, or demurrer put in, and over-ruled, no other plea or demurrer shall thereafter be received, but the defendant shall answer the allegations of the bill.

SEC. LXI. THE complainant at the next rules after a plea or demurrer put in, may cause the same to be set down to be argued; but if the complainant shall not proceed to have the same set down, before the second court after plea or demurrer put in, the bill may be dismissed of course, with costs.

SEC. LXII. UPON a plea or demurrer argued and over-ruled, costs shall be paid as where an answer shall be adjudged insufficient, and the defendant shall answer at the next rules; but if adjudged good, the defendant shall have his costs.

SEC. LXIII. IF any defendant shall obstinately insist on a demurrer, and refuseth to answer, where the court shall be of opinion that sufficient matter is alledged in the bill to oblige him to answer, and for the court to proceed upon, the bill shall be taken for confessed, and the matter thereof decreed accordingly.

SEC. LXIV. THE said court in its discretion may direct an issue to be tried at their own bar whenever it shall be judged necessary.

SEC. LXV. THE right of appeal from the county and corporation courts to the High Court of Chancery and to the District Courts, shall be exercised in the same manner as prescribed in the acts "reducing into one the several acts Concerning the High Court of Chancery," and "reducing into one the several acts concerning the establishment, jurisdiction and powers of District Courts."

SEC. LXVI. IF the plaintiff or demandant appeals, then the special bail given by the defendant or tenant in the county or inferior court, shall also stand bound to answer the judgment of the District Court, and such appellant shall give bond with security, in the sum of sixty-three dollars and thirty-three cents, that he will prosecute his appeal with effect; and if he do not appear and prosecute the same, his bond shall be forfeited to the defendant or appellee.

SEC. LXVII. NO writ or writs of *certiorari* shall be received or allowed by the justices of any County court or other inferior court, to whom any such writ or writs shall be directed and delivered, nor shall any cause be removed by *habeas corpus* after issue or demurrer joined, in the cause or causes depending in such court or courts, and intended to be removed by such writ or writs, but they shall and may proceed in the said cause or causes as though no such writ had been sued forth, or delivered to them or any of them; and if any cause be removed or stayed by such writ, and afterwards the same cause shall be remanded, or sent back again, by any writ of *procedendo*, or other writ whatsoever, such cause shall never afterwards be removed, or stayed before judgment, by any other writ or writs whatsoever, to be sued forth from either of the District Courts, or from the High Court of Chancery.

SEC. LXVIII. BEFORE any injunction in chancery shall be granted to stay proceedings at law in any action, suit, or judgment whatsoever, in any county or corporation court,

Issues to be tried when necessary. Right of appeal, how to be exercised.

When the plaintiff appeals, special bail bound to answer the judgment of the district court. After issue joined no cause to be removed by *certiorari* or *habeas corpus*.

Rule respecting suits remanded

Injunctions, how to be obtained.

if the court shall not be otherwise satisfied with the matter of equity, the party praying such injunction shall make oath before the court, or before some magistrate, of the truth of the allegations of his injunction-bill; which affidavit shall be certified at the foot of the bill, and he, she, or they, shall moreover enter into bond, with one or more sufficient securities, in the clerk's office, for satisfying and paying all such sums of money and tobacco, and costs, which shall be then due, or become due, to the plaintiff or plaintiffs, in the action, suit, or judgment, so to be stayed, and also for the payment of such costs as shall be awarded against him, her, or them, in case the injunction shall be dissolved; and the clerk shall endorse on the *subpoena* that the bond is filed.

SEC. LIX. THE proceedings of the said courts in common law cases, shall as nearly as may be, conform to the practice in the District Courts. And in chancery cases, the same shall conform to the practice of the High Court of Chancery in like cases, except in such cases as are or shall be otherwise particularly directed by any act of the General Assembly.

SEC. LXX. THE clerks of the several county and corporation courts in this commonwealth shall be, and they are hereby empowered and required, upon the application of any party who hath obtained or shall obtain any judgment, decree or final order in such courts, to issue any legal or proper writ of execution or attachment, as the case may require, as also to issue attachments against executors, administrators, or guardians, who shall fail to account when ordered so to do by such court, directed to the sheriff of the same, or any other county, provided there be fifteen days at least, and not more than ninety days, between the teste and return of such writ.

SEC. LXXI. NOTHING in this act before contained shall be construed to enlarge, alter or abridge any of the powers, jurisdictions, or constitutions of any court of any city, town, corporation, or borough, within this commonwealth, but the same shall remain as if this act had not been made; any thing herein to the contrary, or seeming to the contrary, notwithstanding. *Provided always*, That the respective corporation courts or courts of hustings of any city, town, or borough, shall have jurisdiction only in suits or controversies instituted between the respective inhabitants or citizens of such city, town, or borough, and between one or more of the inhabitants of such city, town or borough, and any person or persons not an inhabitant or inhabitants of this commonwealth, and in either case only where the contract hath been made, or the cause of action hath accrued, within such city, town or borough; and in all such suits and controversies, their respective jurisdictions shall not be limited to any particular sum, but shall be co-extensive with the jurisdiction of the county courts.

SEC. LXXII. NOTHING in this act before contained shall be construed to prejudice or in any manner affect the charters of the city of Williamsburg and borough of Norfolk, or either of them.

SEC. LXXIII. NO person being a member of any corporation court, court of hustings, or common-councilman of any city, town or borough whatsoever, within this commonwealth, except common-councilmen of the city of Williamsburg or borough of Norfolk, shall, while a member of such corporation court, court of Hustings, or common-council, be capable of acting as a justice of any county court.

SEC. LXXIV. THE clerks of the several county and corporation courts, shall annually, on or before the first day of July, transmit to the auditor a list of all fines imposed by their respective courts within the next preceding year; and if no fine shall have been imposed within such period, the clerk shall certify accordingly. Every clerk failing to perform the aforesaid duty, shall forfeit and pay one hundred and fifty dollars, to be recovered by the auditor on motion to the General Court, and applied to the use of the commonwealth, provided ten days previous notice be given in writing of every such motion.

SEC. LXXV. ALL and every act, clause and parts of acts, within the purview of this act, shall be, and the same are hereby repealed.

SEC. LXXVI. THIS act shall commence and be in force from and after the first day of May, one thousand seven hundred and ninety-three.

C H A P. XVI.

An ACT reducing into one, the several Acts concerning the recovery of Debts due to the Public, and the sale of Lands for judgments on behalf of the Commonwealth against Public Officers.

[Passed November the 30th, 1792.]

SECTION I. **B**E it enacted by the General Assembly, That when any person who hath received, or shall receive public money from the treasurer for public use, hath not applied, or shall not apply the said money accordingly, or hath neglected, or shall neglect to ac-

Proceedings at common law shall conform to the practice of the district courts, and in chancery to that of the high court of chancery.

Clerks shall issue executions on the application of any person obtaining judgment; and attachments against guardians failing to account.

Powers of corporation courts not enlarged or abridged by this act. What suits are cognizable therein.

Charters of Williamsburg and Norfolk not to be affected by this act.

Magistrates of corporations and common councilmen not to act as justices of any county.

Exception. Lists of fines imposed by the courts to be sent to the auditor.

Former acts repealed.

Commencement of this act.

Mode of proceeding against persons misap-

plying money
received from
the treasury
for public use.

count for and repay so much thereof as shall remain unapplied, upon a motion on behalf of the commonwealth, made to any court of record, notice thereof in writing having been given ten days or more to the delinquent, with a state of the matter alledged against him, either by delivering copies of such notice and allegation to him, or leaving them at the place of his usual abode, the said court may give judgment and award execution against him and his sureties, for so much as a jury, to be impannelled instantly, unless good cause be shewn for deferring it, for trial of an issue, if he appear, and make it up, or for enquiry of damages, if he appear not, or appearing, refuse to make up such issue, shall find to be due from him, on any such account as aforesaid, with damages to be assessed by the jury, and costs.

Against per-
sons contract-
ing to supply
the army, &c.
for breach of
contract.

SEC. II. WHEN the attorney prosecuting on behalf of the commonwealth, shall commence an action for breach of a contract, which hath been or shall be entered into with government, or with an agent thereof, to supply the army or navy with provision or other articles, at the emanation of the writ, he shall file a declaration, with an assignment of the breaches, which with the writ shall be delivered to the officer, to whom that is directed, and served upon the defendant fifteen days or more before the return day; and on such return day, or on the return day of the subsequent process, in case the preceding be not legally served, if the defendant appear and make up an issue, or if he appear not, or appearing, refuse to make up such issue, a jury shall be impannelled instantly, unless good cause be shewn for deferring it, to try the issue, or enquire of damages. And in like cases, the agents or contractors of the United States of America, may, by the like remedy, on behalf and in the name of the said States, recover money due to them.

The same re-
medy extended
to the United
States.

And to public
contractors
against persons
contracting
with them.

SEC. III. AND whereas divers persons have, and hereafter may enter into contracts with the agents or contractors for victualling and clothing the army and navy, and have or may fail or refuse to comply therewith: *Be it further enacted*, That upon any suit being brought by any victualler, agent, or contractor, against any person or persons so failing or refusing, the proceedings therein shall be the same, and the plaintiff shall have the same remedy and redress, as is herein before directed in suits which may be brought on behalf of the commonwealth.

Mode of pro-
ceeding against
persons in-
debted to the
public, by
bond, bill,
note, &c.

SEC. IV. IT shall and may be lawful for the General Court to give judgment with costs, at the motion of the Auditor, on ten days previous notice, against any person or persons indebted to the commonwealth, by bond, or other specialty, whether the same be taken in the name of the Governor or Treasurer, or any other person acting in a public character, for or on behalf of the commonwealth, and also to give judgment for all bills of exchange and notes, and for the penalty of all bonds entered into by any person or persons, conditioned for the rendering accounts, or other duties.

Against a pub-
lic debtor
where an error
in his favor is
discovered in
any adjusted
account.

SEC. V. WHERE any person or persons have been, are, or may hereafter be indebted to the commonwealth, either in specie or other articles, collected or otherwise received, for or on behalf of the commonwealth, and such person or persons, on a settlement with the auditor, have obtained a *quietus*; and where judgment hath been or may be obtained in favor of the commonwealth, and the amount thereof adjusted and discharged, either before or after the issuing of the execution, whereby a *quietus* may have been or shall hereafter be obtained, by the party or parties, and it shall afterwards appear that an error or mistake had been committed to the prejudice of the commonwealth in the settlement of such account, judgment, or execution; in all or any of these cases, it shall and may be lawful for the General Court to give judgment on motion, with ten days previous notice, for the amount of such error or mistake, without interest or damages thereupon, the same being proved to the satisfaction of the court.

The like re-
medy to him
if he has over-
paid.

SEC. VI. AND when it shall appear after settlement, that by error or mistake any person shall or may have paid more to the commonwealth than was really due, such person shall have the same remedy by motion with notice, against the auditor, as is by this act given to the commonwealth.

Against sheriffs
who fail to ac-
count for pub-
lic taxes.

SEC. VII. IF any sheriff or collector of the public taxes, shall fail to account for and pay into the public treasury, the taxes by him received, in manner and at the time prescribed by law, every such delinquent sheriff or collector, shall be liable to a judgment against him on motion, to be made by the auditor, or other person appointed for that purpose, at the November General Court, or any subsequent court after such failure, for the amount of the taxes due, and five *per centum* damages, together with an interest of five *per centum* per annum, upon the whole amount, until paid, for the use of the commonwealth, and thereupon execution shall issue; provided the party has ten days previous notice of the day on which such motion is to be made.

Regulation
respecting pe-
titions from
delinquent
sheriffs.

SEC. VIII. NO petition or petitions shall in future be received from any sheriff or collector of the public revenue, or their security or securities, or from any person or persons, directly or indirectly, in their behalf, unless such sheriff or collector shall previous to such application, advertise at the door of his courthouse, on one court day at least, a list of the persons in arrears for taxes, in his county, together with the balances due from such persons respectively, making oath to the same before the court of the county in which he or they respectively reside, which oath shall be committed to record and list filed in the clerk's office; and the said sheriff or collector shall produce an attested copy of such advertisement, together with copies of the list and certificate aforesaid, signed by the clerk of his or their respective county courts.

SEC. IX. LANDS and tenements shall and may, by virtue of writs of *fiery facias*, be taken and sold in satisfaction of all judgments which have been obtained after the seventh day of January, one thousand seven hundred and eighty-eight, or may be obtained hereafter, on behalf of the commonwealth, against any sheriff, coroner, or other public collector, or against his or their security or securities: *Provided*, that the same shall not extend to any such security or securities, who shall have become so before the said seventh day of January, one thousand seven hundred and eighty-eight.

SEC. X. EVERY judgment obtained against any sheriff, coroner, or other public collector, shall bind the property of the lands and tenements, of such public debtor, from the date thereof.

SEC. XI. WHEN the goods and chattels taken in execution to satisfy a judgment of the commonwealth, by virtue of a *fiery facias*, shall not, in the opinion of the officer levying the same, be sufficient to satisfy the debt with damages and costs, the sheriff or other officer shall, at the same time, give public notice at the churches and meeting-houses, if any there be, and courthouse of his county at the next court day, and shall moreover give notice to the owner, if he be in the county, or otherwise to his agent, if any such be known, at some time appointed in the notice, not less than ninety, nor more than ninety-six days from the time of levying the execution, that the said lands and tenements will be exposed to sale by auction, on the premises, or at such other place in the county, as the owner shall by writing under his hand delivered to the officer, direct.

SEC. XII. IF the public debtor against whom a judgment hath been entered subsequent to the said seventh day of January, one thousand seven hundred and eighty-eight, or shall be hereafter entered, have several parcels of land which lie in one and the same county, he or his agent may by writing under his hand at any time before the day of sale, require the sheriff or officer to whom a writ of *fiery facias* upon the judgment shall be directed, to make the debt or damages and costs of such of the said parcels of land as the owner or his agent shall think proper; and if the parcels be in different counties, the clerk shall and may at the like request in writing, direct the *fiery facias* to the sheriff or officer of any county which the party or his agent making oath or solemn affirmation, that he hath lands there, shall particularly mention at any time before the writ shall be delivered to the officer. And if the debt, damages, and costs be made of any other parcel of land, or of lands lying in any other county than that mentioned in such written requisition, the sale of such other parcel of the land in such other county shall be void.

SEC. XIII. IF the owner of the land before or at the day of sale, shall not make payment of the debt due to the public, the sheriff or officer shall proceed to sell the said lands and tenements, or such estate and interest as the party convict shall have therein, or so much thereof as will be sufficient, laid off in one entire parcel if it may be done, in such place and manner as he or his agent, if he think proper, shall direct for ready money, or other property, as the demand may be, and the costs: But if the estate cannot be sold for three-fourths of its value, in the opinion of the valuers of the county, or in the opinion of such other person as may be by law directed, he shall sell the same upon three months credit, taking bond of the purchasers, with sufficient surety or sureties, for the payment to the chief magistrate of this commonwealth for the time being.

SEC. XIV. EVERY bond thus taken, shall mention on what occasion the same was taken, and shall by the sheriff or officer be immediately returned to the clerk's office from whence it issued, there safely to be kept, and when due, execution thereon may be awarded in the same manner, and on the same conditions, that executions are now awarded on replevy bonds, and shall in like manner be endorsed by the clerk, "that no security is to be taken."

SEC. XV. IN all sales of lands by virtue of an execution, the sheriff or other officer shall convey the same to the purchaser at his costs, by deed in writing, sealed, and recorded as the laws direct for other conveyances of land; which deed shall recite the execution, purchase, and consideration, and shall be effectual for passing to the purchaser, all the estate and interest which the debtor had, and might lawfully part with in the lands. *Provided nevertheless*, That if any sheriff or other officer who may have made sale of lands by virtue of any execution to him directed, on the part of the commonwealth, should die or remove out of the state, before deeds made in conformity to such sale or sales, then it shall and may be lawful for the next succeeding sheriff or other officer, to convey the same to the purchaser or purchasers thereof, in as full and ample manner, as his predecessor in office might or should have done.

SEC. XVI. IF the lands and tenements, goods and chattels, of any sheriff, coroner, or other public collector, are insufficient to satisfy the debt, damages, and costs, due to the public, judgment shall be obtained against his security or securities, in the same summary way, that judgment may by law be obtained against his or their principal, and the lands and tenements, goods and chattels of such security or securities, except as before excepted, shall be taken in execution to satisfy the balance of such debt, damages, and costs, in the same manner as the lands and tenements, goods and chattels of his or their principal, may be taken and sold agreeable to this act.

Lands of public collectors may be sold to discharge the commonwealth's judgments against them in certain cases;

Proviso in favor of securities in certain cases. And bound from the date of the judgment. Notice of the time and place of sale, how to be given.

Debtor having several parcels of land may direct which shall be sold. Sale how to be made.

Where the estate cannot be sold for three-fourths of its value, the officer may sell upon three months credit.

Proceedings on the bonds taken in pursuance of this act.

Conveyances to be made by the officer to the purchaser at his costs;

Proceedings against the securities of public collectors.

Clerks to insert lands and tenements in executions against public collectors.

SEC. XVII. IN every writ of *fiel facias* upon judgments which have been obtained subsequent to the said seventh day of January, one thousand seven hundred and eighty-eight, or hereafter to be obtained by the commonwealth, against any sheriff, coroner, or other public collector, or the securities of them, or either of them, after the words, "We command you that of the," the clerk from whose office such writ shall issue, shall insert the words "lands and tenements," and conform the subsequent part of such writ thereto.

Executive may direct property of public collectors under execution to be removed to an adjacent county.

SEC. XVIII. WHERE the property of any sheriff, coroner, or other public collector, or their securities, has been taken in execution to satisfy a judgment obtained by the commonwealth, and the same was not sold for want of buyers, and return thereon hath been made to that effect; or where the property of any sheriff, coroner, or other public collector, or their securities, have been exposed to sale by virtue of any writ of *venditioni exponas* to satisfy a judgment obtained by the commonwealth, and could not be sold for want of buyers, and return hath been made to that effect; in either of the above cases, it shall and may be lawful for the Executive, and they are hereby authorized and required, to direct the officer, to whom any subsequent process in either of the above cases ought to issue, provided such property cannot be sold agreeable to the directions of such subsequent process, to cause such property to be removed to such place in any adjacent county, as the Executive may direct, and there to be sold for money or government securities, on such terms, and in such proportions as they shall judge expedient: *Provided*, That if such property was not sold for three-fourths of its value, in the judgment of the valuers of the county, or in the judgment of such other person as may be by law directed, where the sale shall be made, the sheriff or other officer shall sell the same on three months credit, and shall take bonds in the same manner, and the like proceedings shall be had thereon, as is herein before directed in cases of bonds taken on the sale of lands and tenements sold by virtue of this act.

Proviso.

Executions against sheriffs to be served by the high sheriffs.

SEC. XIX. IN every case where any writ of *fiel facias* or *venditioni exponas* issues against the estate of a sheriff on behalf of the commonwealth, if by law the same ought to be directed to a sheriff, such writ or writs shall be executed by the high sheriff.

Executive may direct the property of public collectors under execution to be removed to an adjacent county; To be informed when their interposition is necessary; And if process be fraudulently served; Fraudulent sales under such process to be void; And the officer disqualified for any office.

SEC. XX. IN like manner where any writ of *fiel facias* or *venditioni exponas* shall hereafter issue at the instance of the commonwealth, against the estate of any sheriff, coroner, or other public collector, or their securities, and the goods and chattels of such debtor cannot be sold for want of buyers, the Executive shall direct the property to be removed and sold as above directed, in cases of such sheriffs, coroners, public collector, and securities, whose property has not been sold for want of buyers.

Summary remedy against collectors who have failed to give bond and security.

SEC. XXI. IT shall be the duty of the auditor forthwith to acquaint the Executive when their interposition is, or hereafter may become necessary, to the carrying this act into effect.

SEC. XXII. THE auditor, immediately on the return of any process which he shall suspect was fraudulently executed, shall give notice thereof to the Executive, whose duty it shall be to direct the attorney of the commonwealth for such district, county or corporation, to file an information thereupon, in which like proceedings shall be had as in other cases of information; and if it shall appear that such sale was fraudulently made, the property of any thing thus fraudulently sold, shall not be changed, but remain subject to the demand of the commonwealth; and the officer who executed such process, if he be concerned in such fraud, shall ever after be rendered incapable of being appointed to any office of honor or profit.

SEC. XXIII. AND whereas sheriffs and other public collectors in some instances have proceeded to collect the public revenue without having entered into bond with security for the faithful performance of that duty, which cannot be recovered from such collectors, except by the tedious process of law: For remedy thereof *Be it enacted*, That every sheriff, or other public collector, who may have attempted the collection of any of the different species of taxes in any county or corporation in this state, shall be liable to a judgment and execution for the same sum, and in the same summary way, as if such sheriff or other public collector had actually given security agreeable to law.

Expence attending removal of collector's property under execution, how to be defrayed.

SEC. XXIV. IN all executions founded upon judgments, which were obtained prior to the seventh day of January, one thousand seven hundred and eighty-eight, where it may be necessary to remove any property by virtue of this act, the extra expences attending such process shall be discharged by the commonwealth; but in all executions upon judgments obtained after the day last mentioned, or hereafter to be obtained, such additional expences shall be paid by the owner of the property, and taxed in the costs of the prosecution.

Penalty on officers failing to serve or return executions.

SEC. XXV. ALL sheriffs, coroners, or other persons authorized to levy executions of any kind on behalf of the commonwealth, and failing so to do according to law, or withholding any such execution for any longer time than one month after the return day, shall forfeit and pay to the commonwealth, at the rate of fifteen *per centum per annum*, on the amount of such execution, to be computed from the return day thereof, until such execution be actually returned.

For a false return.

SEC. XXVI. AND any officer as aforesaid, who shall make a false return on any such execution, shall forfeit and pay twenty-five *per centum* on the amount of such execution.

SEC. XXVII. AND in case any sheriff, coroner, or other officer, shall levy on behalf of the commonwealth, any execution, and shall return the same as satisfied, paid or discharged, or in any other words, form or manner, which shall entitle the debtor to a credit therefor, either wholly or in part, and shall fail to pay the amount of such credit within one month after the return day of such execution, or other process, then such sheriff or other officer, so failing, shall forfeit and pay to the commonwealth, double the damages and double the interest to which the debtor, against whom the said execution may have issued, was subject, to commence and accrue on the return day of such execution, and to continue until payment be made into the treasury; and in all such cases where no damages are expressed, but interest only is required by the said execution from the debtor, the sheriff or other officer failing to pay to the treasury within one month after the return day of such execution, shall forfeit and pay at and after the rate of twenty per centum per annum on the amount.

For failing to pay money received under execution.

SEC. XXVIII. UPON all executions of *heri facias* already issued, or hereafter to be issued, and which shall have been, or shall be levied, but not discharged, whereby subsequent process is necessary to be issued, every such subsequent process, may at the discretion of the auditor be directed to such person specially by name as was high sheriff at the time of levying the former execution, who shall proceed in the execution of such subsequent process until the debt be fully paid, notwithstanding such person's time as sheriff of the county be expired.

When executions may be directed to persons other than the sheriffs.

SEC. XXIX. AND all and every deputy sheriff levying any execution for, or on behalf of the commonwealth, shall, on failing to sign in addition to his own name, the name of the high sheriff under whom he acts, be subject to the same fine as is hereby inflicted for withholding an execution, to continue until such return be amended by the addition of the high sheriff's name, or the amount of such execution be actually paid; and in case of inability in any deputy sheriff to pay such fine, the same may be recovered of the high sheriff, which he may hereafter recover of such deputy by motion in the court of his county, on giving ten days previous notice to the deputy so failing.

Penalty on a deputy sheriff failing to add the name of his principal to a return.

SEC. XXX. NO compliance with such duties as are by this act prescribed after the respective periods assigned for performance, and notice given of an intended motion as herein after is mentioned, shall bar a recovery of the fines and forfeitures.

When the performance of duty shall not bar the recovery of a fine. Method of proceeding where the property of a public debtor is under any lien or incumbrance.

SEC. XXXI. IN all cases of *heri facias* not levied by reason that the effects in a public debtor's possession cannot be taken in consequence of any previous *bona fide* execution, mortgage, deed of trust, or any other conveyance or incumbrance whatsoever, the sheriff holding such execution shall set forth in his return fully and explicitly the nature of the conveyance or incumbrance under which a claim is set up, and in what court the same be recorded, and if by virtue of executions, the names of the persons at whose instance such executions issued, the amount of each, and from what court they were issued, in order that the auditor may institute such proceedings as the attorney-general may direct against all persons concerned in order to have their claims or demands fully ascertained; and all courts wherein such proceedings shall or may be instituted, are hereby authorized to give the preference in hearing all such cases before others of any kind or nature forever, and to quicken the same by such rules as to them shall seem expedient.

SEC. XXXII. IF any person shall attempt to stop, interrupt or injure the sale of the estate of any public debtor taken by virtue of an execution, by any fraudulent execution, conveyance, or incumbrance whatsoever, he shall forfeit to the commonwealth the sum of three hundred dollars.

Penalty for interrupting the sale of any public debtor's estate.

SEC. XXXIII. ALL fines and forfeitures inflicted by this act, shall be recovered by the auditor on behalf of the commonwealth, by motion in the General Court with costs, on giving ten days previous notice. *Provided always*, that upon a prosecution instituted for any fine or forfeiture inflicted by this act, a jury shall be impannelled to try the facts, if it shall be desired by the party prosecuted.

Fines and forfeitures, how to be recovered;

SEC. XXXIV. THE defendant or parties against whom judgment may have been obtained for any such fine or forfeiture, may, on application to the Governor and Council, obtain a remission either of the whole or part, as to the Governor, with advice of Council, may seem reasonable and proper.

Remission of them, how to be obtained.

SEC. XXXV. ALL and every act and acts, clauses and parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this act, shall in any wise extend to or affect any duty, fine, forfeiture, penalty, or remedy of, for, or concerning any matter or thing before the commencement of this act.

Former acts repealed.

SEC. XXXVI. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this act

An ACT concerning Coin, and for other Purposes.

[Passed December the 19th, 1792.]

What gold and
silver coin shall
be current,

until regulated
by congress.

Rates.

The public ac-
counts to be
kept in dollars
and parts of
dollars.

The treasurer
to receive the
interest on the
deficiency of
loan of the state
debt.

Repealing
clause.

Commence-
ment of this act

SECTION I. *BE it enacted by the General Assembly,* That from and after the first day of January, in the year of our Lord one thousand seven hundred and ninety-three, the gold and silver coin herein after mentioned shall be current in this commonwealth, and shall be a legal tender in payment of all debts and contracts between individuals, and in payment of all public dues and taxes, at the rates following, until it shall be otherwise regulated and directed by the congress of the United States; that is to say: The gold coin of France, Spain, Portugal, and England, at the rate of five shillings and four-pence the pennyweight, or of a dollar for twenty-seven grains; the gold coin of Germany, at the rate of four shillings and ten-pence the pennyweight, or a dollar for twenty-nine grains and eight tenths of a grain; Spanish milled dollars at the rate of six shillings, or one hundred cents; and other silver coin uncut, in like proportion. Cut silver coin shall be receivable at the treasury of this commonwealth for all public dues and taxes, at the rate of six shillings and eight-pence, or one dollar and eleven cents, the ounce.

SEC. II. *AND be it further enacted,* That the money of account of the commonwealth, shall be expressed in dollars or units, dimes or tenths, cents or hundredths, and milles or thousandths; a dime being the tenth part of a dollar, a cent the hundredth part of a dollar, and a mille the thousandth part of a dollar; and that all accounts in the public offices shall be kept and had in conformity to this regulation.

SEC. III. *THE* treasurer of the commonwealth is authorized and directed to receive from the commissioner of the loan-office of the United States in this state, the interest which hath or shall become due on the deficiency of the sum allowed to be subscribed of the debt of this commonwealth, agreeably to an act of Congress, intituled, "An act making provision for the debt of the United States."

SEC. IV. *ALL* and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

SEC. V. *THIS* act shall commence in force, from and after the first day of January, in the year of our Lord, one thousand seven hundred and ninety-three.

An ACT for reducing into one, the several Acts of Assembly, for the inspection of Tobacco.

[Passed November the 29th, 1792.]

No tobacco to
be exported,
but in casks,
and inspected.

Warehouses
established.

SECTION I. *BE it enacted by the General Assembly,* That no tobacco shall be shipped or exported from this commonwealth, unless the same shall be packed in hogheads or casks, taken from some public warehouse herein-after mentioned, and received and inspected according to the directions of this act.

SEC. II. *PUBLIC* warehouses for the reception of tobacco pursuant to this act, shall be kept at the several places herein-after mentioned, that is to say: In the county of Accomack, at Pitt's landing, upon Pocomoke, at Guildford, and at Pungoteague, under one inspection; in the county of Caroline, at Roy's; in the county of Dinwiddie, at Bolling's point, Bolling-brooke, and Cedar point; in the county of Essex, at Hobb's-Hole, at Bowler's, and at Layton's; in the county of Fairfax, at Colchester, Alexandria, and the Falls of Patowmac; in the county of Gloucester, at Poropotank, and at Deacon's neck; in the county of Hanover, at Page's, Crutchfield's, and Meriwether's; in the county of Chesterfield, at Rocky ridge, Osborne's, at John Bolling's, on the lands of Jacob Rubsamen, in the town of Manchester, to be called and known by the name of Manchester, on the lots of Alexander and Peterfield Trent, in the town of Manchester, distinguished in the plan thereof by the numbers two hundred and nine, two hundred and ten, two hundred and twenty-one, and two hundred and twenty-two, to be called and known by the name of Trent's warehouse, and on those of Edward Johnson, deceased, in the said town, to be called and known by the name of Johnson's warehouse; in the county of Henrico, at Byrd's, Shockey, and Rockett's; in the county of Isle of Wight, at Smithfield, and at Fulgham's, under one inspection; in the county of King and Queen, at Shepherd's, at Mantapike, and at Frazer's, in King William, under one inspection, and at Todd's in King and Queen, and at Aylett's in King William, under one inspection; in the county of King George, at Boyd's-Hole, and Machodaek, under one inspection, and at Gibson's, to be called and known by the name of Gibson's warehouse; in the county of Lancaster, at Davis's and Lowry's, under one inspection, and at Deep Creek and Glascock's, under one inspection; in the county of Northumberland, at North and South Wicomico, un-

der one inspection, at Coan's, in the said county, and at Indian creek in the said county, and at Dwyer's in the county of Lancaster, under one inspection; in the county of Middlesex, at Urbanna, and at the place where Kemp's warehouse formerly stood up Pianketank river; in the county of Nansemond, at Milner's and Suffolk; in the county of Northampton, at Cherrystones and Nafwaddox, under one inspection; in the county of New-Kent, at Littlepage's and the Brick house; in the county of Prince George, at Hood's, Boyd's, Davis's, and Blandford; in the county of Prince William, at Quantico, Dumfries, a place called Rocks, on Quantico creek, to be called and known by the name of M'Rae's warehouse, and in the town of Newport, on the lots of Cuthbert Bullitt, to be called and known by the name of Bullitt's warehouse; in the county of Richmond, at Cat point, and Totuskee; in the county of Surry, at Gray's creek, and Low point; in the county of Stafford, at Falmouth, at Acquia, and at Dixon's; in the county of Spotsylvania, at Fredericksburg, and at Royston's; at Yeocomico and Kinsale, under one inspection; in the county of Westmoreland, at Nemony, at Leeds, and Maddox, under one inspection; at the College landing in the county of James City, and at York Town in the county of York; at Hampton in the county of Elizabeth City; in the county of Botetourt, on the lands of William Crow, at Crow's ferry, to be called and known by the name of Crow's warehouse; in the county of Hampshire, at the confluence of the north and south branches of the river Patowmac, on the lands of Thomas Cresap, to be called and known by the name of Cresap's warehouse; and in the town of Romney, to be called and known by the name of Romney warehouse; in the county of Campbell, at Lynch's ferry, to be called and known by the name of Lynch's warehouse; in the county of Fluvanna, at the Point of Fork, on the lands of David Rofs, to be called and known by the name of Rivanna warehouse; in the county of Amherst, on the north side of James river, below Swan's creek, on the lands of Nicholas Cabell, to be called and known by the name of Swan creek warehouse; in the county of Berkeley, on the lands of Abraham Shepherd, near the town of Mecklenburg, to be called and known by the name of Mecklenburg warehouse; on the lands of William Barksdale, in the town of Petersburg, to be called and known by the name of Barksdale's warehouse; on the lands of Robert Bolling, junior, in the said town, adjoining his present dwelling house, to be called and known by the name of West-hill warehouse; on the lands of Alexander G. Straghan, in High street, in the said town, to be called and known by the name of High street warehouse; on the lots of Thomas Shore and George Wilson, likewise in the said town, to be called and known by the name of Westbrook warehouse; and on the lands of Elizabeth Spencer, Ann Swann Saunders, and Daniel Wooldridge in the said town, to be called and known by the name of Petersburg warehouse; in the county of Albemarle, on the lands of Bennett Henderson, at the place called the Shallows, on the Rivanna river, to be called and known by the name of Henderson's warehouse; and on the lands of Wilson Cary Nicholas, at the mouth of Ballenger's Creek, in the said county, to be called and known by the name of Nicholas's warehouse; in the county of Monongalia, at Morgan-Town, to be called and known by the name of Morgan-Town warehouse; in the county of Loudon, at the great falls of the Patowmac, to be called and known by the name of the Great-Falls warehouse; in the county of Cumberland, on the lands of John Woodson, at Carter's ferry, to be called and known by the name of Woodson's warehouse; in the county of Norfolk, on the lands of Thomas Veal, in the town of Portsmouth, to be called and known by the name of Portsmouth warehouse; in the county of Fairfax, on the lands of William Thornton Alexander, in the town of Alexandria, to be called and known by the name of Thornton's; in the county Amherst, on the lands of John Lynch, at his ferry, to be called and known by the name of Amherst warehouse; in the county of Halifax, on the lands of Richard Booker, at Booker's ferry, on the Staunton River, to be called and known by the name of Booker's warehouse; in the county of Buckingham, on the lands of John Horfeley, at the mouth of Bent Creek, to be called and known by the name of Horfeley's warehouse.

SEC. III. THE rents of the several warehouses hereby established, shall be, and they are hereby established at the following rates: At Pitt's and Guildford's, thirty-three dollars and thirty-three cents; at Pungoteague, twenty-six dollars and sixty-seven cents; at Cherrystones and Nafwaddox, twenty-six dollars and sixty-seven cents; at Hampton, thirty-three dollars and thirty-three cents; at the College Landing, thirty-three dollars and thirty-three cents; and at all the other warehouses, there shall be allowed and paid for the rents for the same, twenty-five cents for every hoghead of tobacco that already has been or shall be received, inspected and delivered out of such warehouses respectively, except as herein after excepted. And there shall be paid to the proprietors of each warehouse, for all tobacco lying therein more than twelve months at the rate of five cents per month for each hoghead, to be paid by the shipper thereof, at the time of shipping the same.

SEC. IV. WHERE the warehouses are already built at any of the places herein before mentioned, and appointed for keeping the same, and are now made use of for public warehouses, the proprietors and owners of such warehouses shall be, and they are hereby obliged to let the same to the inspectors during the continuance of this act, at the rent hereby established for such warehouses respectively, and if any proprietor or owner shall refuse so to do, he shall forfeit and pay fifteen hundred dollars; and where warehouses are not already built at any of the places aforesaid, or where any new warehouses shall be hereafter appointed to be kept at any other place, it shall be lawful for the justices of the court of that county wherein such place is or shall be, and they are hereby required, at the next court to be held for their county after such new warehouse shall be so appointed, to order and direct so many strong, close, and substantial houses, secured with strong doors, hung on iron hinges, and with strong locks or bolts, as will

Rents of warehouses.

Proprietors of old warehouses to let them to the inspectors.

County courts to direct the number and kind of new warehouses.

And take bond with security of the proprietor if he chooses to build and let them.

If he refuses, the land to be paid for and the warehouses to be built at the expense of the public, and the rents to be paid to the treasurer.

Where warehouses are discontinued, the land to revert to the former proprietor, he returning the price, &c.

Inspectors annually to lay before the court an account of tobacco inspected, and condition of the houses. Court may order houses to be repaired or secured, and new houses built if necessary.

by the proprietor or public.

Penalty on county courts for neglect.

Houses & other conveniences.

contain sufficient room for two-thirds of the number of hogheads, which in their opinion will be annually brought to the same, and one brick square or funnel six feet high at least, and four feet diameter, with a proper arch at the bottom of the same, for burning tobacco refused and picked, at such warehouses, and such other conveniences as shall be necessary; and shall cause the owner or proprietor of the land where such warehouses are appointed to be kept, and if such owner or proprietor be under age, *feme covert*, or out of the country, then the guardian, husband or known attorney, or agent (as the case may be) of such owner or proprietor, to be summoned to appear before them at the next succeeding county court after such summons shall issue, there to declare whether they will undertake to erect and build such houses, funnel, and other conveniences, and let the same to the inspectors appointed to attend at such warehouses at the rent settled by this act, or which shall be hereafter settled for the same; and in case such owner, guardian, husband, known attorney or agent, will undertake the same, then the said court shall, and they are hereby required, to take bond with sufficient security, in a reasonable penalty, payable to the governor and his successors, to the use of the commonwealth, with condition for the due performance of such undertaking. And if such owner, guardian, husband, known attorney or agent, shall refuse to undertake the same, or give such bond as aforesaid, then it shall be lawful for the said justices, and they are hereby required, to value an acre of the said land, and to pay or tender to the proprietor, his or her guardian, husband, known attorney or agent, the value thereof, which shall be repaid to the said justices by the public, and from thenceforth the justices of the county for the time being, shall be seized in fee of the said land in trust, and for the use of the public, during the time the said place shall be made use of for a public warehouse; and the said justices shall agree with some person or persons to erect and build thereon, such houses, funnels, and other conveniences as is herein before directed, and shall certify the charge thereof to the treasurer of this state for the time being, who is hereby directed and required to pay the same out of the public money in his hands arising from the inspection of tobacco, and shall take and receive of the inspectors the rent established at such warehouses for reimbursing the public the charge of such buildings, until the same shall be repaid with lawful interest. And where the justices of any county court, or any other person or persons, have already built warehouses on lands of another person by virtue of, or in pursuance of the laws lately or now in force, the said justices, or other person or persons, shall in like manner be seized in fee of the acre of land upon which such warehouses are built, so long as the said places respectively shall be made use of for public warehouses; but if any of the warehouses which are or shall be built by the public, the justices, or other persons shall hereafter be discontinued, the proprietor of the land returning the price paid for the same, with lawful interest, shall be thenceforth seized of his former estate.

SEC. V. THE inspectors at the several warehouses shall, at the court to be held for their respective counties in the month of September yearly, or at the next succeeding court, produce and render into court an exact account under their hands, of the number of hogheads of tobacco inspected at their respective warehouses the preceding year, and of the condition of the warehouses under their charge, and the quantity of tobacco they are capable of containing, and thereupon such court, if they shall not be satisfied that the warehouses already built, at any of the said inspections, are properly secured, and contain sufficient room for two-thirds of the number of hogheads mentioned in such account, to be conveniently stored, shall enter an order that the owner or proprietor of such warehouses, shall within such reasonable time as the said court shall think fit to allow, repair and make close the warehouses already built, and secure the same with strong doors hung on iron hinges, and with strong locks or bolts; and that such owner or proprietor shall also, before the first day of April, in the ensuing year, erect, build, and completely finish, such and so many other strong, close and substantial houses, as with the other houses already built, shall be sufficient, in the opinion of such court, conveniently to contain two-thirds of the quantity of tobacco mentioned in such inspector's account, and secure the same in manner herein before directed; a copy of which order shall be served on such owner or proprietor, or his or her guardian, husband, attorney or agent, (as the case may be) and if such owner or proprietor, his or her guardian, husband, attorney or agent, shall fail to appear at the next succeeding court, after such notice, and enter into bond with sufficient security in a reasonable penalty, payable to the governor for the time being, and his successors, with a condition for the due performance of the same, then it shall be lawful for the said court, and they are hereby required, to cause such repairs and houses to be made and built as aforesaid, and shall certify the charge thereof to the treasurer of this state for the time being, who is hereby required to pay the same out of the public money in his hands arising from the inspection of tobacco, and shall take and receive from the inspectors the whole or a proportion of the rents established at such warehouses, for reimbursing the public the charge of such buildings and repairs, with interest thereon, which proportion shall be settled by the court, and by them certified to the treasurer.

SEC. VI. IF any county court shall fail or refuse to do their duty in directing such houses, funnels, and other necessary conveniences, at the places established by this act for erecting new warehouses, or such additional buildings and repairs at the places where houses are already built, and causing the same to be built or made according to the directions of this act, every justice so failing or refusing, shall forfeit and pay one hundred dollars, to be recovered in the district court, with costs, by action of debt, or information, against the justices jointly.

SEC. VII. PROVIDED always, That nothing herein contained shall be construed to give power to the said justices to take away the houses, orchards, or other immediate conve-

encies of any proprietors of lands, for the purposes aforesaid, nor to the said inspectors to keep any horses, cattle or hogs, at any public warehouses, except their riding horses, upon the land appointed for such warehouses; and if any swine belonging to the said inspectors, or any of them shall be found at large upon the land appropriated for such warehouses, or the lands adjoining thereto, it shall be lawful for the proprietors of the said lands, to kill or cause to be killed or destroyed, all such swine.

not to be taken from proprietors. Inspectors not to keep any horses, cattle or hogs on the land.

SEC. VIII. *PROVIDED also*, That where any houses have been or shall be built by the justices or other persons, as aforesaid, and the first proprietor of the land shall desire to have the same again, such proprietor, upon payment of so much money as shall be sufficient to reimburse the said justices or other person the principal money expended for the purchase of the land and the building such warehouses, with lawful interest, deducting the rents received by the said justices or other person, shall be restored to his former estate in the land whereon such warehouses are built, and shall receive the rents aforesaid growing due for such warehouses: *Provided also*, That if any proprietor so as aforesaid restored to his estate, shall neglect or refuse to build and repair such houses, as the court shall think necessary, the justices shall again be seized of the fee simple estate in such land during the time such place shall be made use of for a public warehouse, and such proprietor shall not have any benefit of the rents that shall hereafter become due.

How proprietor may be restored to his former estate.

But if he again fails to build or repair to be re-vested in the public.

SEC. IX. ON complaint being made by the owner or owners of any of the warehouses aforesaid, to any justice of the peace in the county where such warehouse shall lie, against any person or persons, for breaking, tearing, or committing any waste or destruction of, or in such warehouse or warehouses, it shall be lawful for such justice, and he is hereby empowered and required to give judgment and award execution against the body or estate of such offender if found guilty for all damages occasioned by such breaking, tearing, or waste, or destruction, provided such damages do not exceed the sum of five dollars in his opinion; and if such damages shall exceed that sum, then it shall be lawful for such owner or owners to commence and prosecute his or their action at law, against any such offender in any court of record within this state, in which the plaintiff shall recover costs, although the damage shall be under seven dollars.

Waste or destruction of warehouses, how to be punished.

SEC. X. THERE shall be kept at every one of the said warehouses herein before appointed, and at all others hereafter to be appointed, a good and sufficient pair of scales with weights to weigh fifteen hundred pounds at the least, and a set of small weights, the same that are or ought to be provided for the standard weights of each county; and where such scales and weights are not already provided, or now are or shall hereafter be worn out, or become unfit for use, the justices of the respective county courts wherein any of the said warehouses are or shall be, are hereby directed and required to provide the same, with all convenient speed; and the treasurer for the time being is hereby empowered and required to pay the purchase money out of the public money in his hands arising from the inspection of tobacco, and moreover the said justices are hereby required and directed, twice in every year at least, to appoint one or more of their number to view the said scales, and examine and try the weights at the several warehouses by the standard weights of the county; and if the said scales and weights shall want repairing, or the weights be found deficient, or differing from the lawful standard, the said justices shall cause the same to be repaired and mended, and the weights made conformable to the standard; and if the justice or justices so appointed, shall refuse or neglect to do the same, the justice or justices so refusing, shall forfeit and pay the sum of one hundred and fifty dollars; and the charge of repairing and mending the said scales and weights, and also for removing the standard to the several warehouses for trying the same, shall be paid by the inspectors respectively, and be again allowed to them in their accounts with the treasurer.

Scales and weights to be provided,

and tried and repaired twice a year.

SEC. XI. ALL tobacco which shall be brought to any of the public warehouses shall be viewed, inspected and examined by two persons to be thereunto appointed, who shall be called inspectors, which said inspectors shall be appointed in the following manner, that is to say: The courts of the several counties within this state, wherein any of the public warehouses appointed by this act are established, shall and they are hereby required, once in every year and no oftener, at their respective county courts held in the months of August or September, to nominate and recommend to the governor for the time being, for so many offices of inspection as are or shall be in their respective counties, four fit and able persons reputed to be skilful in tobacco, for the execution of the office of inspectors; and where two warehouses under one and the same inspection happen to lie in different counties, in that case the court of each county shall nominate and recommend two for such inspection, which nomination the said courts shall cause to be entered upon record, and the clerks of the said courts shall, and they are hereby required forthwith to transmit a certificate of the same to the clerk of the council; and out of the said four persons nominated and recommended for each inspection, the governor with advice and consent of council, shall choose and appoint two to execute the office of inspectors at such inspection; and in default of such nomination or recommendation by the county courts as aforesaid, the governor with the like advice and consent shall appoint such persons as he shall think fit to be inspectors at such inspection, for which no nomination or recommendation shall be made as aforesaid, and also in case of the death, resignation, or removal of any inspector, the governor, shall, and may appoint any person named in the last recommendation from the county court, for that inspection where the vacancy shall happen, to succeed him until the next nomination and appointment of inspectors; but if either of the persons named in such last recommendation, will not accept the said office, in that case, the governor, with the advice and

Tobacco to be viewed by the inspectors. Manner of appointing inspectors.

Additional in-
spectors to be
appointed:
When to act.

consent of the council, may appoint any other person they shall think fit; and besides the two inspectors appointed as aforesaid, the governor, for the time being, with the advice of the council, shall appoint one of the persons recommended with such inspectors to be additional inspector at the warehouse for which he shall be recommended; which additional inspector shall officiate as such only, in cases of disagreement in opinion of the other inspectors as to the quality of tobacco brought to their inspection, or where either of them shall through sickness or otherwise be absent from his duty, or shall bring his own tobacco to the warehouse whereof he is inspector, to be viewed; and the said additional inspector shall be paid for the services he shall perform, by occasion of the absence of either of the other inspectors, out of the salary of such absentee, in proportion to the time he shall officiate.

No inspector
to take a re-
ward for re-
signing.
Penalty on
giver and re-
ceiver.

SEC. XII. IF any inspector shall hereafter accept, receive or take, directly or indirectly, any fee, gratuity, service or reward whatsoever, of any person for resigning or giving up his office of inspector, he shall not only be forever disabled from holding the like office, but for such offence shall forfeit and pay the sum of six hundred dollars, to be recovered with costs by action of debt, in any court of record within this state, by any person suing for the same; and every person offering or paying directly or indirectly, any fee, service, gratuity, or reward whatsoever, to any inspector to resign his said office, shall for the said offence be forever disabled from holding the office of inspector within this state.

No justice of
the peace re-
commended as
an inspector to
vote in recom-
mendation.
Inspector in
office, recom-
mended to con-
tinue without
new commission,
but shall
annually re-
new his bond
for the due dis-
charge of his
duty.
Inspectors to
give bond with
security and
take an oath.

SEC. XIII. *PROVIDED* always, That no justice of the peace recommended to be an inspector, shall be allowed to vote in nomination and recommendation of persons to be inspectors as aforesaid, and where any person once recommended as aforesaid, and executing the office of inspector in pursuance of such recommendation, shall be again recommended the succeeding year, the same shall be a sufficient appointment to him to continue in the said office for another year, without any new commission, and so from year to year, so long as he shall be so recommended as aforesaid. *Provided nevertheless*, that each inspector shall annually renew his bond, and give security for the faithful discharge of his duty.

The oath.

SEC. XIV. EVERY person appointed or to be appointed inspector by virtue of this act, shall before he enters upon the execution of the said office, enter into bond with good security in the penalty of four thousand dollars, payable to the governor for the time being and his successors, with condition for the true and faithful performance of his duty, according to the directions of this act, which bond shall be recorded in the county, and transmitted by the clerk of the court to the treasurer under the penalty of three hundred dollars, who shall move for judgment against every inspector failing to discharge the same within two months after failure, under the penalty of three hundred dollars; and every such inspector shall also take the following oath, at the time he gives bond, that is to say: "You shall swear that you will diligently and carefully view and examine all tobacco brought to the public warehouse or warehouses where you are appointed inspector, and that not separately and apart from your fellow, but in his presence; and that you will not receive or pass any tobacco that is not in your judgment sound, well conditioned, merchantable, and clear of trash, nor receive, pass or stamp any tobacco hogheads or casks of tobacco contrary to the true intent and meaning of this act, nor refuse any tobacco that in your judgment is sound, well conditioned, merchantable and clear of trash, and that you will not change, alter, or give out any tobacco, other than such hogheads or casks, for which the receipt to be taken, was given, but that you will in all things well and faithfully discharge your duty in the office of inspector, according to the best of your skill and judgment, and according to the directions of this act, without fear, favor, affection, malice or partiality: So help you GOD." Which oath shall be taken before the governor of this state for the time being, before the district court, or in the court of the county wherein such inspector shall reside, or the warehouses at which he shall be appointed inspector shall stand; but before any inspector shall enter upon the execution of his office, he shall produce a certificate, if sworn before the governor or district court, (as the case may be) of his having taken such oath, which certificate shall be lodged with the clerk of the county where such inspector shall be; and if any person shall presume to execute the office of inspector before he shall have given such bond and taken such oath as aforesaid, he shall forfeit and pay two thousand dollars.

Penalty for
acting without
qualifying.

Time inspec-
tors are to at-
tend.

Penalty for
not attending.

SEC. XV. ALL inspectors to be appointed by virtue of this act, shall constantly attend their duty at the warehouse or warehouses under their charge, from the first day of October, to the tenth day of August yearly, except Sundays, and the holy days observed at Christmas, Easter, and Whitsuntide, or when hindered by sickness; and afterwards they or one of them shall constantly attend at the same, except on Sundays, to deliver out tobacco for exportation, until all the tobacco remaining there the said tenth day of August shall be delivered: But no inspector shall be obliged to view any tobacco between the said tenth day of August, and the first day of October, except such as remained in the warehouse on the said tenth day of August; and every inspector neglecting to attend as aforesaid, shall forfeit and pay to the party grieved, one dollar for every neglect, or shall be liable to an action upon the case at the suit of the party grieved, to recover all such damages as he or they shall have sustained by occasion of any such neglect, together with his or their full costs, at the election of such party.

Tobacco to be
entered as
brought in and
viewed in due
turn.

SEC. XVI. AND that all persons having tobacco at the public warehouses, may have equal justice, the inspectors shall enter in a book to be kept for that purpose, the marks and owners names of all tobacco brought to their respective warehouses for inspection as the same shall be brought in, and shall view and inspect the same in due turn as it shall be entered in

such book, without favor or partiality; and shall uncase and break every hoghead or cask of tobacco brought them to be inspected as aforesaid; and if they shall agree that the same is good, sound, well conditioned, merchantable, and clear of trash, then such tobacco shall be weighed in scales with weights of the lawful standard, and the hoghead or cask shall be stamped in the presence of the said inspectors, or one of them, with the name of the warehouse at which inspected, and also the tare of the hoghead or cask, and quantity of nett tobacco therein contained; and the inspectors at such warehouses shall issue a receipt for each hoghead of tobacco they shall pass, if required by the owner; which receipt shall be in the form following, to wit:

_____ River, _____ Warehouse,		Received of _____
the _____ day of _____, 17 _____,		_____ hogheads of crop
Sweet scented.		tobacco, marks, numbers,
_____ Leaf. _____ Stemmed. _____ Leaf.		weights, and species, as per
_____ Oronoko.		margin; to be delivered by us
		to the said _____
		or his order, for exportation,
		when demanded, Witness
		our hands.

Each hoghead to be uncased and viewed, & if found good, stamped and receipt given.

Form of the receipt which is to be printed for crop tobacco.

Where the inspectors disagree concerning the quality of tobacco.

What hands the inspectors shall keep.

Inspectors or servants not to be concerned in picking tobacco.

Owner may pick refused tobacco, but if he refuses the pickers shall do it.

Penalty on picker refusing to pick tobacco.

Pickers, how to be appointed.

Their oath.

Allowance.

Duty.

How punished for misbehavior.

AND no inspector or inspectors, shall under any pretence whatsoever, issue a receipt for any tobacco other than such as shall be printed, in which the date shall be inserted at full length. And if any inspector or inspectors, shall presume to issue a receipt in any other manner than is hereby expressed, he or they, for every such offence, shall forfeit and pay the sum of three hundred dollars; to be recovered with costs, by any person who may sue for the same, in any court of record within this state: Which receipts as aforesaid, shall be furnished by the public printer, and at the public expense: But if the said two inspectors, shall at any time disagree concerning the quality of any tobacco brought for their inspection to any warehouse under their charge, they shall as soon as conveniently may be, call in the additional inspector appointed to attend such warehouse, who shall determine and pass or reject such tobacco; and if he shall pass the same, his name shall be entered in a book kept by the inspectors, opposite the mark, number, and weight of the hoghead by him passed, together with the name of the inspector at such warehouse who shall officiate with him. And the inspectors at each of the warehouses established by this act, shall constantly keep so many able hands at their respective warehouses as the courts of the several counties wherein they lie, shall from time to time judge necessary, and direct, for the purpose of taking care of all tobacco brought to such warehouse, and stowing it away after the same shall be inspected and stamped. And no inspector shall by himself, his servant, or any other person, either directly or indirectly, be concerned in picking any refused tobacco, unless it be his own property, on any pretence whatsoever, under the penalty of being forever thereafter disabled from holding the office of inspector.

SEC. XVII. WHEN any tobacco shall be refused by the inspectors, the proprietor thereof shall be at liberty to separate the good from the bad, but if he refuses or neglects so to do within two months of such refusal, the inspectors shall direct one or more of the pickers attending the warehouse, to pick and separate such refused tobacco, and give the owner credit for so much thereof as shall be found merchantable, after paying the pickers one twelfth part of the quantity saved; and the inspectors shall cause the tobacco which shall by them be judged unfit to pass, to be burned in the brick funnel, erected or to be erected at such warehouse, under the penalty of seven dollars for every failure, to the informer; recoverable with costs, before any justice of the county wherein such warehouse shall be. *Provided always,* That any picker refusing to pick and separate refused tobacco, when directed by an inspector, shall forfeit and pay five dollars, to the use of the owner of such tobacco; recoverable with costs, before any justice of the county or corporation.

SEC. XVIII. THE courts of the several counties wherein any of the public warehouses appointed by this act are established, shall, and they are hereby required to nominate and appoint from time to time, such and so many persons as to them shall seem necessary, who are willing to undertake the same, to attend the several warehouses within this state, to turn up, sort, separate and pick such tobacco as shall be refused by the inspectors. And every person so appointed a picker, shall make oath before the court at the time of his appointment, or at the next succeeding court, that he will carefully and diligently without fraud or embezzlement, sort and separate all such tobacco, as shall be refused by the inspectors, and the owner or proprietor thereof, or the inspectors, shall employ him to pick; and every picker of tobacco shall be allowed to demand and receive from the respective proprietors, twenty-one cents per hoghead for opening, and one twelfth part of all the tobacco saved out of any refused hoghead by him picked, for his services in opening, sorting and picking the same, and no more. And no picker of tobacco shall keep or employ any negro or mulatto slave at any public warehouse, on any pretence whatever; nor shall any picker presume to hinder any person who may choose to open their own tobacco, or to pick what may be refused by the inspectors, from the free use of the picking-house and prize, for the convenience of picking or prizing the same. And if any picker shall misbehave himself in his said office, it shall and may be lawful for the court of the county where such picker shall be appointed, on complaint and motion to them made, to remove such picker from his said office, and to appoint another person to act in his room, if to them it shall seem necessary; and every picker so removed, shall forever after be rendered incapable of serving as picker at any public warehouse; *Provided*

Penalty for picking without being so appointed, except by the proprietor, his hands, or others.

Pickers not to prize up their tobacco saved by picking. Overseers liable for tobacco refused and burnt.

Penalty on inspector for being concerned with a picker as a partner or receiving any thing from him. On a picker for the same, or for receiving more than the legal fee.

Form of transfer receipts.

Their date and currency.

Allowance for cask. Weight of tobacco prized in discharge of receipts.

One dollar for inspection and fifty-eight cents for prizing and nails. Allowance for cask & shrinkage.

such picker hath ten days previous notice of such motion; and any person, who shall be aggrieved by any such misbehaviour in a picker, may make complaint thereof to any justice of the peace, who is hereby empowered and directed to take depositions therein, provided such picker have notice thereof, and to transmit the same to the next court to be held for the county, where the offence shall be committed, to be there given in evidence on the examination into such misbehaviour. And if any person not being appointed and sworn as aforesaid, shall presume to undertake the opening, sorting, picking, or separating any such tobacco for hire or reward, every person so offending shall forfeit and pay four dollars for every such offence; to be recovered by the informer, to his own use, before any justice of the peace. *Provided*, That any proprietor of tobacco, who may choose to open, pick and prize his own tobacco, may employ his own servants or slaves, or any other person or persons, other than the hands kept by the inspectors, to assist him in opening, picking or prizing the same, and the person or persons so employed, shall not incur or be subject to the last mentioned or any other penalty or forfeiture for so doing; and the inspectors shall issue receipts for all tobacco saved by picking, to the proprietors only of such tobacco, and not to the pickers of the same. And the inspectors shall not suffer or permit any picker to prize up any tobacco that he shall have saved by picking, for his own use. And if any tobacco picked in any hoghead or cask by an overseer, or the hands under his care, shall be burnt by the inspectors, by reason of its being bad, unsound, or not in good condition, the overseer who had the care of making and packing the same, shall be at the loss of the tobacco so burnt, and make satisfaction for the same out of his share of the crop, or otherwise; and the inspectors shall be obliged to keep an account of all tobacco so burnt.

SEC. XIX. IF any inspector of tobacco shall in any manner be concerned as a partner with, or receive from any picker of tobacco, money or any gratuity, every inspector herein offending, on conviction, before any court of record, shall forfeit and pay two thousand dollars to the prosecutor, to be recovered by action of debt with costs; and shall moreover be rendered incapable of serving as an inspector. Every picker who shall be concerned as above with an inspector, or who shall demand, take or receive any greater fee or reward for his services, other than by law allowed, shall forfeit and pay, on conviction, to the person prosecuting, three hundred dollars, to be recovered in like manner, and shall for ever after be incapable of acting in any character at a public warehouse.

SEC. XX. WHERE any tobacco shall be brought to any of the said warehouses for the discharge of any public or private debt or contract, the said inspectors or one of them, after they have viewed, examined and weighed the said tobacco, according to the directions of this act, shall be obliged to deliver to the person bringing the same, as many receipts under the hands of the said inspectors as shall be required for the full quantity of tobacco received by them, in which shall be expressed whether the tobacco, so received, be sweet scented or Oronoko, stemmed or leaf; which receipt shall be in the form following, to wit:

R E C E I V E D , No. 17

R E C E I V E D of _____ warehouse, the _____ day of _____ 17____ pounds of transfer tobacco, to be delivered on demand to him, or to his order, according to the directions of the act, intituled "An act for mending the staple of tobacco, and preventing fraud." Witness our hands.

And shall bear date the day the tobacco for which the same is given, shall be received and passed, and shall be current in all tobacco payments, according to the species expressed in the receipt, within the county wherein such inspectors shall officiate, and in any other county next adjacent thereto, and not separate therefrom by any of the great rivers or bay herein after mentioned, that is to say; James River below the mouth of Appamattox; York below West-point; Rappahannock below Taliaferro's Mount; or by the Bay of Chesapeake; and shall be transferrable from one to another in all such payments, except as herein is excepted, and shall be paid and satisfied by the inspector or inspectors who signed the same, upon demand. And for every hoghead of tobacco brought to any public warehouse and transferred, there shall be allowed by the inspectors thereof to the person bringing the same after the rate of four pounds of tobacco, for every hundred pounds of tobacco the said hoghead shall contain, for the cask; so as such allowance do not exceed thirty pounds of tobacco, provided the cask or hoghead is good, and of such dimensions as is herein after expressed, and the said inspectors shall, and they are hereby obliged to make every hoghead by them paid away in discharge of any receipt by them given as aforesaid, to contain one thousand pounds of nett tobacco at the least; and for every hoghead of tobacco by them paid away, well lined and nailed, fit for shipping, there shall be paid by the person shipping such hoghead, one dollar for inspection, and fifty-eight cents for prizing, and nails; which said sum of fifty-eight cents, the inspectors may retain in their hands for their own use, to reimburse them the expense and trouble of providing nails and prizing. And the person demanding or receiving tobacco in discharge of receipts as aforesaid, shall allow to the inspectors thirty pounds of tobacco for each hoghead so received, for the cask, and two pounds of tobacco for every hundred pounds of tobacco contained in such receipts, and so in proportion for a greater or lesser quantity, for shrinkage and wasting, if the said tobacco be paid within two months after the date of the receipt given for the same; and one pound of tobacco for every hundred, for every month the same shall be unpaid after the said allowance; so as such allowance for shrinkage and wasting do not exceed in the whole six pounds of tobacco for

every hundred. And if any inspector or inspectors, by whom any such receipts for tobacco as aforesaid shall be signed, shall refuse or delay to pay and satisfy the same when demanded, every inspector so refusing or delaying shall forfeit and pay to the party injured, double the tobacco so refused or delayed to be paid, to be recovered with costs in any court of record within this state, if the receipt or receipts so refused or delayed to be paid, exceed two hundred pounds of tobacco; and if the said receipt or receipts do not exceed two hundred pounds of tobacco, the double value aforesaid shall and may be recovered before any justice of the peace of the county wherein the warehouse shall be, at which the receipt or receipts ought to be paid.

Remedy against inspectors.

SEC. XXI. ALL tobacco brought to any of the said warehouses in hogheads, to be exported on account, and for the use of the owner thereof, after the same shall have been received, examined, found to be good, and weighed, shall be stamped as herein-before directed; and the said inspectors, or one of them, shall deliver to the person bringing the same, as many receipts, signed as aforesaid, as shall be required for the number of hogheads so brought and stamped, in which shall be expressed, whether the tobacco so received, be sweet scented or Oronoko, stemmed or leaf, and whether the same be tied up in bundles or not; and where any hoghead hath part leaf and part stemmed, shall signify the same at the bottom of the receipt; and they shall not mix stemmed and leaf tobacco in any hoghead which they shall prize, and pay away in discharge of their transfer receipts; and for every hoghead brought to any of the said warehouses, to be exported by land or by water out of this state, there shall be paid to the inspectors attending at such warehouses, by the exporter, at the time of demanding the same for exportation, the sum of one dollar, and the owners of the tobacco shall find and provide nails sufficient for securing and nailing thereof; and where they shall fail so to do, the inspectors at such warehouse, shall furnish nails for the purpose aforesaid, and shall be allowed and paid by the owner, thirteen cents for each hoghead so secured. And if any inspector or inspectors, shall alter, change or deliver out any hoghead of tobacco, other than the hoghead, for which the receipt for crop tobacco to be taken in, was by him or them given; or shall alter or change any such tobacco, although no such receipt shall have been given, such inspector or inspectors shall forfeit and pay one hundred and fifty dollars for every hoghead so altered, changed or delivered out. And if any inspector shall fail or refuse to deliver any hoghead of tobacco, when the same shall be demanded for exportation, such inspectors shall forfeit and pay to the owner thereof, double the value of the tobacco, which they shall so refuse or fail to deliver. And all inspectors shall, and they are hereby obliged, if required, to take in any receipt or receipts by them given for crop tobacco; and after having weighed such tobacco, to give transfer receipts for the same, with an allowance of four per centum for the cask; so as such allowance do not exceed thirty pounds of tobacco for every cask. *Provided*, that such hoghead shall contain, at least, one thousand pounds of nett tobacco, and not mixed leaf and stemmed. *Provided nevertheless*, that no inspectors shall give their receipt or receipts for any transfer or crop tobacco, which shall be opened or picked by any picker legally appointed, until the proprietor of such tobacco, or his or her agent, shall have first paid or tendered to such picker, his lawful charges for opening or picking the same. And in the absence of any such picker, a payment, or tender to any of the inspectors there attending, for the use of the picker, shall be as effectual as if made to such picker in person. And if any inspectors shall deliver their receipt or receipts for any such tobacco, so opened or picked, before such payment or tender be made, they shall be liable to such picker for the amount of the same.

How receipts are to be given for crop tobacco.

Inspection tax of one dollar to be paid by the exporter.

Penalty on inspectors changing tobacco,

or failing to deliver it when demanded.

To transfer crop tobacco.

Pickers to be paid before the receipts are delivered.

Stemmed tobacco to be laid straight.

Size of tobacco hogheads.

SEC. XXII. AND for restraining the undue practice of mixing trash with stemmed tobacco, and preventing the packing of tobacco in unsizeable casks. *Be it enacted*, that all stemmed tobacco not laid straight, whether the same be packed loose, or in bundles, shall be accounted unlawful tobacco; and that no tobacco packed in hogheads, which exceed fifty inches in the length of the stave, or thirty-two inches at the head, within the crow, making reasonable allowance for prizing, which allowance shall not exceed two inches above the gauge, in the prizing head, shall be passed or received; but the owner of such tobacco, packed in casks of greater dimensions than before expressed, shall be obliged to repack the same in sizeable casks, at his own charge, before the same shall be received or stamped by the inspectors.

Penalty for delivering tobacco without an order from the proprietor.

SEC. XXIII. AND whereas many and great inconveniencies have arisen from inspectors undertaking to deliver tobacco, the property of others, in their warehouses, without order from the proprietors of the same: *Be it enacted*, That if any inspector shall presume to deliver any tobacco in his warehouse, without order from the owner or proprietor of such tobacco, every inspector so offending, and being thereof duly convicted in the court of the county wherein he officiates, is declared incapable of serving forever after as an inspector in this state, and moreover shall be liable to the penalty of one hundred and fifty dollars for every hoghead of tobacco so as aforesaid delivered without order of the owner or proprietor thereof; to be recovered by such owner or proprietor thereof, if he or she shall prosecute within four months after the offence committed; or if he or she decline the prosecution, then after that time, by any person who shall inform or sue for the same, by action of debt or information, in any court of record within this commonwealth. And if any inspector shall deliver any transfer receipts or notes of credit for tobacco, to any person or persons, unless at the time of delivering the same, he shall have actually and *bona fide* received and passed tobacco, the property of him, her, or them in whose name or names such receipts or notes shall be made out, to the full amount of the quantity therein specified, every inspector so offending, and being duly convicted, shall be disabled from serving as an inspector, and moreover shall forfeit twenty dollars for every hun-

And for issuing fictitious notes.

fixed weight of tobacco such fictitious notes shall express, to any person who will sue for the same; recoverable by action of debt, in any court of record.

Inspector to give crop notes in exchange for transfer,

and at September court yearly give an account of, and sell tobacco for notes outstanding;

also tobacco gained by allowance for cask and shrinkage.

To account with the treasurer upon oath, when and how.

To return an account annually of tobacco shipped.

Proceedings where uninspected tobacco is about to be exported by water.

SEC. XXIV. THE owners of any transfer receipts, may, at any time before the sale of the tobacco contained in such transfer receipts, as herein-after is directed, receive and mark hogheads of tobacco to satisfy such receipts; and the inspectors shall take in their former receipts, and deliver crop receipts for such hogheads, and shall be answerable for the safe keeping thereof, in the same manner as they are for crop tobacco; but the persons receiving such hogheads shall pay to the inspectors one dollar and fifty-eight cents, for the inspection and nails for every hoghead, that is to say, fifty-eight cents down to the inspectors for their own use for nails and their trouble in prizing, and one dollar as inspection, when the tobacco is delivered. And the inspectors shall at the court held for their county in the month of September yearly, or if there be no court in that month, then at the next court held for their county, lay before the court an account upon oath, of all transfer receipts that were not by them taken in and received before the time of sale herein before mentioned: And after such account exhibited and oath made, shall sell the tobacco in such receipts contained, deducting the allowance for shrinkage and waisting, at public auction, at the door of the courthouse, between the hours of twelve and two; and the inspectors shall pay the money arising by such sale, in satisfaction of their receipts, from time to time, to the proprietors thereof, making their demand, under the same penalty as is inflicted for not paying inspectors receipts. And all inspectors shall keep a just and true account of the tobacco gained or saved upon the allowance made for cask and for shrinkage, and for transfer tobacco, or otherwise; and if any tobacco shall be so gained or saved, shall exhibit an account thereof, and shall also sell the tobacco so gained and saved, in the manner as is directed for the sale of transfer tobacco, and shall account for the money arising by such sale to the treasurer of this state for the time being, in their next account with him; and the said treasurer shall account for the same to the General Assembly; and no inspector shall convert any tobacco so gained to his own use.

SEC. XXV. ALL inspectors shall before the tenth day of October, in every year, account with the treasurer of this state upon oath, for all monies received, or which ought to be received by them, by virtue of this act, except the money paid for nails, and for their trouble in prizing, or for repacking damaged tobacco, which shall be relanded at their inspections, for every hoghead of transfer tobacco; in which account they shall be allowed their salaries, the rents of the warehouses, and all other necessary disbursements in pursuance of this act. And in order to ease the inspectors giving their personal attendance at the treasury, they are hereby required, after stating their accounts with the treasurer, as above directed, to take the following oath before some one justice of the peace of the county where they officiate, to wit:—"We A. B. and C. D. do swear, that the account now produced, contains an exact state of all the tobacco shipped the preceding year from _____ warehouse, all taxes received, or due for the same, also all tobacco gained at the said inspection by any means whatsoever. SO HELP US GOD." And the justice of the peace before whom they are sworn, shall, and he is hereby required, to certify on the said account, that they have taken this oath.

SEC. XXVI. THE several inspectors of tobacco in this state, shall annually, at the time of settling their accounts with the treasurer, deliver to him an account, upon oath, of all the tobacco shipped from their respective warehouses within the year preceding, containing the number of hogheads or casks sent on board each ship or vessel respectively; and every inspector failing therein, shall forfeit and pay the sum of one hundred and fifty dollars.

SEC. XXVII. AND any justice of the peace of any county near the place where any ship or other vessel shall ride, upon information made to him upon oath, by any free man, that there is good cause to suspect any tobacco uninspected, in cask, bulk, or parcels, to be on board such ship or other vessel, shall, and he is hereby empowered and required to issue his warrant, directed to the sheriff or any constable of his county; and the sheriff or constable shall have full power and authority, and he is hereby required to enter and go on board of such ship or other vessel, to search for, and seize such tobacco, and the same being seized, shall be brought on shore and carried before the same, or any other justice, who shall cause the said tobacco to be carried to the nearest warehouse, and there inspected, and if passed, restored to the owner, in case he shall be innocent of the fraud; but if he shall appear to have been concerned in such fraud, or if no owner shall claim within three months, the said tobacco shall be sold by the inspectors, and the money arising from such sale be paid into the public treasury, and accounted for to the General Assembly. And the commanding officer or skipper of any ship or vessel, on board which such tobacco is found, shall forfeit to the informer twenty dollars for every hundred weight, and so in proportion for a less quantity; to be recovered with costs in any court of record, if it be five dollars or more. And if any master or commanding officer, or skipper of any ship or vessel, or any other person whatsoever, shall resist the officer in the execution of any such warrant, every such master, commanding officer or skipper, shall forfeit and pay six hundred dollars; and every sailor or other person so resisting shall forfeit and pay eighty dollars. And if any action shall be brought against any justice of the peace, sheriff or constable, for doing any thing in execution of this act, the defendant may plead the general issue, and give this act in evidence; and if the plaintiff shall be non-suited, or a verdict pass against him, or a judgment on demurrer, the defendant shall recover double costs.

SEC. XXVIII. WHERE any tobacco hath remained, or shall hereafter remain undemand-
ed in a public warehouse two years after the same hath been or shall be inspected, the inspec-
tors shall advertise in the Virginia Gazette for three weeks successively, a list of the marks,
numbers, and weights of such tobacco, with the names of the persons for whom it was inspect-
ed; and if no owner appears to claim the same within three months, they shall at the next
court to be held for the county in which such warehouse shall be, after the expiration thereof,
and advertising as aforesaid, deliver to the court the like list, which court is hereby empowered
and required, to order the same to be publicly sold at the courthouse door, on a court day, to
the highest bidder; the clerk of such court shall transmit within three months to the auditor of
public accounts, a list of such tobacco so directed by the court to be sold; and the money aris-
ing from the sale thereof, shall be paid by the inspectors to the treasurer of this state for the
time being, who shall account for the same, from time to time, to the General Assembly. And
if any person, having a right to any tobacco so sold, shall prove his property therein, the said
treasurer shall repay to such person the money for which such tobacco was sold.

Old tobacco to
be sold.

SEC. XXIX. NO person taking upon himself the office of inspector, shall during his con-
tinuance in that office, or until he hath obtained a *quietus* from the treasury, be capable of
being elected a member of either house of assembly, or shall presume to intermeddle, or con-
cern himself with an election of a member or members of either of the said houses, otherwise
than by giving his vote, or shall endeavour to influence any person or persons in giving his or
their vote, under the penalty of one hundred and fifty dollars for every offence; nor shall any
inspector by himself, or any person for him, be allowed to keep an ordinary or house of enter-
tainment at or near the warehouse where he is an inspector; and every inspector herein offend-
ing, shall be incapable of serving in that office; neither shall any inspector during his conti-
nuance, be, or undertake to be a sheriff, justice of the peace, collector of any public tax, other
than what relates to any such office, county levies or poor rates, or any officers fees; nor shall
directly or indirectly for himself, or for any other person, buy, or receive by way of barter,
loan or exchange, any tobacco whatsoever, under the penalty of ten dollars, for every hundred
weight of tobacco so bought or received. *Provided*, That nothing herein contained, shall be
contrived to hinder any inspector from receiving his rents in tobacco, which shall be first view-
ed, examined and stamped according to the directions of this act.

Inspectors in-
capacitated for
other offices.

SEC. XXX. AND for the further and better direction of the inspectors aforesaid in their
duty, *Be it enacted*, That no inspector shall take, accept or receive, directly or indirectly,
any gratuity, fee or reward, for any thing by him to be done in pursuance of this act, other
than his salary and the other payments and allowances herein before mentioned and expressed;
and if any inspector shall take, accept or receive any such gratuity, fee or reward, such in-
spector being thereof convicted, shall forfeit and pay the sum of three hundred dollars; to be
recovered with costs, by any person or persons who shall inform or sue for the same, by action
of debt or information, in any court of record within this commonwealth, and moreover shall
be disabled from holding the office of inspector during the continuance of this act. And if any
person shall offer any bribe, reward or gratuity, to any inspector for any thing by him to be
done in pursuance of this act, other than the fees and allowances herein before directed, every
person so offending, and being thereof convicted, shall for every such offence, forfeit and pay the
sum of sixty dollars; to be recovered in any court of record within this state; one half of
which forfeiture shall be to and for the use of such inspector refusing such bribe or reward, and
the other half to the person who will inform and sue for the same. And there shall be paid to
each of the inspectors appointed to attend, and attending the said several warehouses, the sala-
ries herein-after mentioned, that is to say:—At Pitt's, Guildford, and Pungoteague, under one
inspection, one hundred and sixteen dollars and sixty-seven cents; at Roy's, two hundred dol-
lars; at Bolling's point, two hundred and sixty-six dollars and sixty-seven cents; at Bolling-
brook's, two hundred and sixty-six dollars and sixty-seven cents; at Cedar-point, two hundred
and sixty-six dollars and sixty-seven cents; at Hobb's hole, one hundred and sixteen dollars
and sixty-seven cents; at Bowler's, one hundred dollars; at Layton's, one hundred dollars; at
Colchester, one hundred and sixty-six dollars and sixty-seven cents; at Alexandria, two hun-
dred dollars; at the falls of Patowmac, one hundred and thirty-three dollars and thirty-
three cents; at Poropotank, one hundred dollars; at Deacon's neck, one hundred dollars;
at Page's, two hundred and sixty-six dollars and sixty-seven cents; at Crutchfield's, two
hundred dollars; at Meriwether's, two hundred dollars; at Rocky-ridge, two hundred and
sixty-six dollars and sixty-seven cents; at Osborne's, two hundred dollars; at John Bol-
ling's, two hundred and thirty-three dollars and thirty-three cents; at Manchester ware-
house, two hundred and sixty-six dollars and sixty-seven cents; at Trent's warehouse, two
hundred and sixty-six dollars and sixty-seven cents; at Johnson's, two hundred and sixty-six
dollars and sixty-seven cents; at Byrd's, two hundred and sixty-six dollars and sixty-seven cents;
at Shockoe, two hundred and sixty-six dollars and sixty-seven cents; at Rockett's, two hun-
dred and sixty-six dollars and sixty-seven cents; at Smithfield and Fulgham's, under one in-
spection, one hundred and thirty-three dollars and thirty-three cents; at Shepherd's, one hun-
dred dollars; at Mantapike and Frazer's, under one inspection, one hundred and fifty dollars;
at Todd's and Aylett's, under one inspection, one hundred and fifty dollars; at Boyd's-hole
and Machodack, under one inspection, one hundred and fifty dollars; at Gibson's, one hun-
dred dollars; at Davis's and Lowry's, under one inspection, one hundred dollars; at Deep
creek and Glascock's, under one inspection, one hundred and sixteen dollars and sixty-seven
cents; at North and South Wicomico, under one inspection, one hundred and thirty-three
dollars and thirty-three cents; at Coan's, one hundred and sixteen dollars and sixty-seven cents;

Penalty on in-
spectors receiv-
ing other gra-
tuity than their
salaries & other
legal allowan-
ces.

And on the
person offering
a bribe.

Inspectors Sa-
laries.

at Indian creek and Dymet's, under one inspection, one hundred dollars; at Urbanna, one hundred dollars; at Kemp's warehouse on Pianketank, fifty dollars; at Milner's, one hundred and thirty-three dollars and thirty-three cents; at Suffolk, one hundred and thirty-three dollars and thirty-three cents; at Cherrystone's and Nalwaddox, under one inspection, one hundred and sixteen dollars, and sixty-seven cents; at Littlepage's, one hundred and sixteen dollars, and sixty-seven cents; at the Brick-house, one hundred dollars; at Hood's, one hundred dollars; at Boyd's, two hundred and sixty-six dollars, and sixty-seven cents; at Davis's, two hundred and sixty-six dollars, and sixty-seven cents; at Blandford, two hundred and sixty-six dollars, and sixty-seven cents; at Quantico, two hundred and thirty-three dollars, and thirty-three cents; at Dumfries, two hundred and thirty-three dollars, and thirty-three cents; at M'Rae's, two hundred dollars; at Bullitt's, one hundred and sixty-six dollars, and sixty-seven cents; at Cat point, one hundred dollars; at Totussee, one hundred dollars; at Gray's creek, one hundred and sixteen dollars, and sixty-seven cents; at Low point, one hundred and thirty-three dollars, and thirty-three cents; at Falmouth, two hundred dollars; at Acquia, one hundred and sixty-six dollars, and sixty-seven cents; at Dixon's, two hundred dollars; at Fredericksburg, two hundred and thirty-three dollars, and thirty-three cents; at Royston's, two hundred and thirty-three dollars, and thirty-three cents; at Nomony, one hundred dollars; at Leed's and Mattox, under one inspection, one hundred and sixty-six dollars, and sixty-seven cents; at Yeocomico and Kinsale, under one inspection, one hundred and thirty-three dollars, and thirty-three cents; at the College landing, eighty-three dollars, and thirty-three cents; at York-Town, eighty-three dollars, and thirty-three cents; at Hampton, fifty dollars; at Crow's warehouse and at Creep's, the inspectors shall receive for each hoghead by them inspected, the sum of sixty-seven cents, seventeen cents whereof shall be paid to the proprietor for the rent of the warehouse, and the residue for their own use; at Romney, fifty dollars; at Lynch's, two hundred and twenty dollars; at Rivanna, one hundred and thirty-three dollars, and thirty-three cents; at Swan creek, one hundred and thirty-three dollars, and thirty-three cents; at Mecklenburg, one hundred dollars; at Barkdale's, two hundred and sixty-six dollars, and sixty-seven cents; at West-hill, two hundred and sixty-six dollars, and sixty-seven cents; at High-street, two hundred and sixty dollars, and sixty-seven cents; at West brook, two hundred and sixty-six dollars, and sixty-seven cents; at Petersburg, two hundred and sixty-six dollars, and sixty-seven cents; at Henderson's, one hundred and thirty-three dollars, and thirty-three cents; at Nicholas's, one hundred and thirty-three dollars, and thirty-three cents; at Morgan-Town, fifty dollars; at Great Falls, one hundred and thirty-three dollars, and thirty-three cents; at Woodson's, one hundred and sixty-six dollars, and sixty-seven cents; at Portsmouth, one hundred dollars; at Thornton's, one hundred and sixty-six dollars, and sixty-seven cents; at Amherst, one hundred dollars; at Booker's, one hundred and thirty-three dollars, and thirty-three cents; at Horsley's, one hundred dollars.

If the warehouse does not pay the inspectors salaries, the deficiency not to be made good by the public. Inspectors above the falls of James River to deliver printed manifests with the tobacco.

SEC. XXXI. *PROVIDED* always, That if the quantity of tobacco, which shall be received at any warehouse already established, or hereafter to be established, shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public.

SEC. XXXII. The inspectors at the several warehouses, established above the falls of James River, upon the delivery of their notes, or an order where notes have not been issued, shall deliver the tobacco for transportation, with a printed manifest, descriptive of the owner's name, the name of the skipper of the bateau or canoe, if transported by water, or if waggoned, the name of the waggoner, to what warehouse or port the same is destined, and to whom to be delivered; the said manifest shall moreover express the marks, numbers, and weights of the tobacco, and each hoghead shall be stamped with the name of the warehouse at which it was inspected; which manifest shall, by the skipper or waggoner, (as the case may be) if the tobacco is intended to be sent to any warehouse heretofore established, be delivered to the inspectors thereof, who are hereby required to receive the same, and grant a receipt therefor, and enter such tobacco in a separate book to be by them provided and kept for that purpose, and on the receipt aforesaid being presented, shall deliver the said tobacco with such manifests, as by law are required for other tobacco lodged in their warehouses for exportation, when required, and may demand for all such tobacco the same warehouse rent as for other tobacco by them inspected. *Provided* always, that nothing in this act contained, shall be construed to prevent any owner of tobacco passed at the said inspections, who has previously paid the legal duties, from exporting, selling, or storing the same in any private warehouse, without being obliged to store it in any warehouse heretofore established.

Copies thereof and of certificates of payment of duties to be sent to the auditor. Owner may have his tobacco re-inspected and weighed.

SEC. XXXIII. THE owners of such tobacco, previous to the delivery thereof, shall procure a duplicate of the manifest, with a certificate from the inspectors, that the duties imposed by law have been paid; which certificate, with all others granted in similar cases, shall be lodged with the clerk of the court of that county where the tobacco was inspected, to be by him transmitted to the auditor of public accounts, on or before the twenty-fifth day of October, annually, to be by him compared with the inspectors accounts. And in case the owner of the tobacco shall suspect any fraud to have been practised or used by any skipper or waggoner in the transportation thereof from either of the said warehouses, it shall be lawful for the inspectors at any warehouse to which the same may be brought, and they are hereby required, at the request of such owner, to re-inspect and weigh the same, and if found to be damaged or embezzled, the inspectors shall not enter the same in their books, but it shall remain subject to the directions of the owner, in like manner as other damaged tobacco.

SEC. XXXIV. THE appointment of inspectors, and all other regulations appertaining to the said warehouses, shall be the same as are provided for by law for other inspections, so far as the same do not contravene this act. All tobacco inspected at either of the said warehouses, shall be subject to the same duties and imposts, and be collected and accounted for by the inspectors in the same manner, and under the like penalties, as are directed and prescribed for other warehouses heretofore established. And the inspectors at each of the said warehouses, may demand and receive for each hoghead by them inspected, the sum of sixty-seven cents, seventeen cents whereof, to be by them accounted for and paid to the proprietor for the rent of the warehouse, and the residue for their own use. *Provided nevertheless*, that no person shall be obliged to receive any notes passed at any of the said warehouses, in discharge of any tobacco contracts heretofore entered into.

The warehouses to be under the same regulations as others.

Allowance to the inspectors and for warehouse rent. Tobacco inspected there, shall not be a tender in certain contracts.

Inspections to deliver tobacco to be manufactured.

SEC. XXXV. THE inspectors of the several warehouses within this commonwealth, shall deliver any inspected tobacco to any person or persons who shall duly demand the same, by delivery of the notes or otherwise, for the purpose of manufacturing it, and grant him or them a manifest therefor, upon such persons paying the usual duties, and lodging with them a certificate of his or their paying, before some court of record within this commonwealth, entered into a bond with sufficient security, in the penalty of fifteen hundred dollars, payable to the governor and his successors, for the use of the commonwealth, with condition that he or they will not export, or cause, or suffer to be exported, either by land or water, any tobacco received by him or them, for the purpose of manufacturing, until it has been manufactured.

SEC. XXXVI. AND for the better detecting inspectors who shall not do their duty, and for the more speedy and easy examination into complaints against them; *Be it enacted*, that any two justices of the peace shall have power to hear all complaints against any inspector within their county, and to take the depositions of witnesses upon the matter of such complaint on both sides, which shall be transmitted by them to the governor and council, for their determination, And to the end such depositions may be taken in the best manner, the clerk of the county, or some sufficient person by him to be appointed, shall attend the said justices for that purpose, and be paid by the county the same fees as are or shall be by law established for attending the examination of witnesses upon a *dedimus potestatem*. And moreover any two justices shall have power to visit all or any of the public warehouses within their county, and if they shall discover any negligence in the inspectors, either in securing the tobacco, or stowing the same away in a proper manner for saving the room in such houses, or that they are guilty of any other breach or breaches of their duty, the justices shall certify the governor and council thereof. And if any inspector shall be adjudged guilty of a breach of his duty, he shall be removed from his office, and be forever after incapable of serving as an inspector. And if any inspector shall be removed from his office, upon a complaint and prosecution against him in the method by this act prescribed, he shall be liable to the action on the case of the prosecutor for his necessary costs and expences in such prosecution, in which the prosecutor shall recover his full costs of suit; but if the inspector or inspectors shall be acquitted upon such examination, the prosecutor shall be liable to the action of such inspector or inspectors, for the recovery of all damages and expences which he or they shall have sustained or been put to by such prosecution, and costs, unless the governor and council shall certify that there was reasonable cause for such complaint; and every inspector shall moreover be liable to the action of the party grieved for all loss and damage that may happen or arise to any person, by occasion of any failure of duty, or neglect of any such inspector; in which action the plaintiff shall recover his full costs, although the damage do not exceed seven dollars.

Method of detecting inspectors who do not do their duty.

SEC. XXXVII. IF any of the warehouses herein before mentioned, shall happen to be burnt, the loss sustained thereby shall be made good, and repaid to the several persons injured, by the General Assembly; and in case of such accident, no inspector shall be sued or molested for, or by reason of any receipts by them given, or for any tobacco burnt in any of the said warehouses, but shall be altogether acquitted and discharged of, and from the payment of the tobacco mentioned in such receipts; any thing herein before contained to the contrary, notwithstanding. *Provided always*, that if the receipts for tobacco so burnt and destroyed, shall be of an older date than twelve months, the tobacco shall not be paid for by the public, but the owner or proprietor thereof shall bear the loss.

When warehouses are burnt the public to pay for the tobacco and inspectors indemnified. Exception.

SEC. XXXVIII. THE inspectors shall not permit the proprietor or any other person to make use of the warehouse at which they are inspectors; and if any warehouse shall hereafter happen to be burnt, and it shall appear that such warehouse was burnt by means of the inspectors permitting the proprietor or any other person to make use thereof, or by the negligence or voluntary act or permission of such inspectors, then the estates of such inspectors shall be subjected to pay to the treasurer for the time being, all such sum or sums of money as shall have been paid to the person or persons so injured, to be recovered by such treasurer, by action of debt in any court of record within this commonwealth.

Warehouses not to be used for private purposes.

SEC. XXXIX. IF any person hereafter shall make any fire within any public warehouse, or without doors within one hundred yards of such warehouse, other than in the inspectors counting-room, squares, or funnels, such person, if a freeman, shall, for every such offence, forfeit and pay thirty dollars; to be recovered with costs by action of debt or information in any court of record within this state, by the informer, to his own use; and if a servant or slave, he or she

No fire to be kindled in or near a warehouse.

Nor wooden chimnies built near them.

shall, by order of any justice of the peace, receive on his or her bare-back twenty lashes for every such offence. And it shall not be lawful for any person whatsoever to erect or build, or cause to be erected or built, any wooden chimney or chimnies within two hundred yards of any public warehouse; and where any such are already built within the distance aforesaid, of any public warehouse, the owner or proprietor thereof shall pull down the same, or on refusal or neglect so to do within one month after the passing of this act, it shall be lawful for the sheriff of the county, and he is hereby required, to cause such chimney or chimnies to be pulled down and demolished.

Death, to issue double notes for the same tobacco, or notes for tobacco not received.

SEC. XL. IF any inspector or inspectors shall give, deliver, or issue to any person whatsoever, his or their receipt expressed to be for any hogthead or cask of tobacco, or for any quantity of transfer tobacco, which they have not actually received into the warehouse whereof they are inspectors, at the time of giving such receipt, or shall give, deliver, issue, or cause or procure to be given, delivered, or issued, more than one receipt for any hogthead or cask of tobacco, or quantity of transfer tobacco by him or them received, except where authorized by law so to do, such inspector or inspectors, being thereof convicted by due course of law, shall be adjudged a felon, and shall suffer death as in case of felony, without benefit of clergy.

Method to be taken where receipts are lost.

SEC. XLI. IF any inspector's receipt be casually lost, mislaid, or destroyed, the person or persons entitled to receive the tobacco by virtue of any such receipt, shall make oath before any justice of the peace of the county where the same is payable, to the number and date of every such receipt, to whom and where payable, and for what quantity of tobacco the same was given; and that such receipt is lost, mislaid, or destroyed, and that he, she or they, at the time such receipt was lost, mislaid or destroyed, was lawfully entitled to receive the tobacco therein mentioned, and shall take a certificate thereof from such justice, and shall advertise the loss of such receipt, at the courthouse of the county in which such inspection may be, on the court day, and at the inspection where the tobacco was brought, for four weeks successively; and shall moreover give bond with sufficient security to the inspectors in double the amount of the tobacco so claimed, to indemnify the person who may thereafter produce the original receipt within twelve months after notice given of the loss of such receipt, the value by him paid for the same, when a duplicate of the said receipt shall be granted by the inspectors to the person or persons entitled to receive the tobacco by virtue of such original receipt, and not otherwise. The bond so taken shall be assignable by the inspectors taking the same to the person producing the original receipt, who may maintain an action of debt thereupon, and such assignment shall exonerate the inspectors from any claim or demand against them by virtue of the original receipt. *Provided nevertheless,* That if the principal and security should at the time of taking such bond be insufficient, that in that case the inspectors shall be responsible for the value of the tobacco to the person producing such original receipt. And if any person shall be convicted of making a false oath, or producing a forged certificate in the case aforesaid, such person shall suffer as in case of wilful and corrupt perjury.

New inspectors to give their predecessors a receipt for the tobacco in the warehouses.

SEC. XLII. WHEN any new inspectors shall be appointed at any of the said warehouses, such inspectors shall, and they are hereby required, to give to the person or persons whom they shall succeed, a receipt with his or their hands subscribed, containing the numbers, marks, gross, tare, and nett weight, of all and every hogthead or cask of tobacco which shall be then remaining at the warehouse or warehouses, at which they are appointed inspectors, with the delivery and payment of which said hogheads or casks of tobacco so remaining, he or they shall from thenceforth be chargeable and liable; but he or they shall in no wise be accountable or answerable for the loss of weight, or for quality of tobacco contained in any hogthead or cask, for which receipt was by him or them so as aforesaid given. And if any hogthead or cask of tobacco shall hereafter be received by any person or persons whatsoever, and delivered out of any of the said warehouses for exportation by the inspector or inspectors attending the same, such inspector or inspectors from the time of such delivery, shall be forever discharged and acquitted from all actions, costs, and charges, for, or by reason of the tobacco contained in any such hogthead or cask being unsound and unmerchantable, or of less quantity than the receipts given for the same shall specify; any thing herein before contained to the contrary, notwithstanding.

Inspectors discharged on the delivery of tobacco.

Prizes to be used in turn for prizing tobacco picked or light hogheads.

SEC. XLIII. AND when any prized tobacco shall be brought to any public warehouse, in order to be shipped on freight or otherwise, and the inspectors there attending shall refuse to pass such tobacco, such as shall be bad and unmerchantable, shall be picked and separated from the rest; or where any light crop tobacco shall hereafter be brought to any of the said warehouses, in either case, the said inspectors, if required, shall permit the owner or other person bringing such tobacco, to make use of one or more of their prizes, for the repacking, prizing, or making heavier such tobacco, without fee or reward; and if there shall be several hogheads of tobacco belonging to several owners, to be picked, repacked, or prized at any public warehouse, the owner or other person bringing the same, whose tobacco shall be first viewed and refused, or found light, shall be first permitted and allowed to make use of such prize or prizes for the purposes aforesaid; and no inspector shall take or convert to his own use, or otherwise dispose of, any draughts or samples of transfer or crop tobacco, but the same, if fit to pass, shall be put into the hogthead or bulk out of which it was drawn, under the penalty of forfeiting four dollars for every draught so taken away, and not returned as aforesaid, contrary to the directions of this act; to be recovered by the informer, one moiety to his own use, and the other moiety to the

Penalty for taking and using draughts.

use of the proprietor of such tobacco, before any justice of the peace of the county where-
in such offence shall be committed. And all inspectors, if required, shall alter the mark and
number of any hoghead of reprized tobacco for which they have before given a receipt; and
for preventing confusion and mistakes, shall keep a waste book, in which shall be entered the
marks and numbers of all hogheads of tobacco received by them, and another book in which
shall be entered the marks, numbers, and weights thereof, when the same shall be delivered
out by them; and all inspectors, when required, shall be obliged to prize any light hoghead
of tobacco under one thousand pounds, so as to make it up the weight one thousand pounds
nett, but shall receive the same fee upon such hoghead, as for transfer tobacco. And where
any tobacco shall be brought to the warehouse by the overseer of the owner thereof, the in-
spectors shall give receipts in the name of the owner, and not of the overseer.

Inspectors to
prize light
crop tobacco
on request.

To give notes
in the name of
the owner.

SEC. XLIV. THE inspectors of tobacco at the several warehouses within this state, shall
immediately on the delivery of every hoghead of tobacco at the warehouse whereof they are
inspectors, give a receipt for such tobacco if required by the proprietor or person bringing the
same to the said warehouses, expressing therein that the same is for uninspected tobacco; eve-
ry inspector refusing so to do, shall forfeit and pay to the owner of such tobacco, the sum of
four dollars.

To give re-
ceipts for to-
bacco when
brought.

SEC. XLV. EVERY master, mate, or boatswain of any ship or other vessel, which shall
arrive in this state in order to load tobacco, shall, before the said ship or other vessel be permit-
ted to take on board any tobacco whatsoever, make oath before the collector of the
port wherein such ship or other vessel shall arrive (which oath the said collector is
hereby empowered and required to administer) that they will not permit any tobacco what-
soever to be taken on board their respective ships or vessels, except the same be packed
in hogheads or casks, stamped by some inspector legally thereunto appointed; which oath
they shall subscribe in a book to be kept by the said collector for that purpose; and if any
master shall cause any person who is not really and *bona fide* mate or boatswain, to come
on shore and take such oath, he shall, for the said offence, forfeit and pay fifteen hundred
dollars.

The oaths of
masters of ves-
sels intending
to load with
tobacco.

SEC. XLVI. IF any person not being a servant or slave, taking upon himself to carry any
tobacco to or from any of the said warehouses in his boat or other vessel for hire, shall take on
board, or permit, or suffer to be taken on board, any tobacco whatsoever, in bulk or parcels,
such tobacco shall not only be forfeited, and may be seized by any person or persons whatso-
ever, but the master or skipper offending herein, shall forfeit and pay fifty cents for every
pound weight of such tobacco; and the master or commander of any ship or vessel, wherein
any tobacco in bulk or parcels shall be found, shall over and above the forfeiture thereof, be
subject and liable to the same penalty; to be recovered, if it doth not exceed twenty dollars,
before any two justices of the peace of any county near the place where such ship, boat, or
other vessel shall lie; and if it exceeds twenty dollars, in any court of record by action of
debt, wherein the plaintiff shall recover his costs. And if any servant, or other person em-
ployed in navigating any such boat, or other vessel, shall connive at or conceal the taking
or receiving on board any tobacco in bulk or parcel, as aforesaid, he shall pay the sum of
twenty dollars, to be recovered as aforesaid; and if such servant or other person, shall be un-
able to pay the said sum, he or they shall, by order of such justice, receive on his bare back,
thirty-nine lashes well laid on; and if such boat or other vessel be under the care and manage-
ment of a servant who cannot pay and satisfy the penalty so to be inflicted on the master or
skipper offending as aforesaid, then such servant, and every other person employed under him,
unable to pay the said penalty, who shall be guilty of conniving at, or concealing the taking
on board tobacco in bulk or parcels, as aforesaid, shall, upon every complaint, and proof
thereof made to a justice of the peace, have and receive, by order of the said justice, thirty-
nine lashes well laid on; and if any servant shall again be entrusted with the care and ma-
nagement of any boat or other vessel, and shall be convicted a second time of taking or re-
ceiving on board the same, any tobacco in bulk or parcel, contrary to the directions of this
act, the owner of such servant shall forfeit and pay the like sum of fifty cents per pound for
every pound weight of such tobacco so taken or received on board in bulk or parcel, and
shall also forfeit and pay two dollars for every day such servant shall thereafter be employed as
skipper or master of any boat or vessel to him belonging; to be recovered and applied as aforesaid.
Provided nevertheless, that it shall be lawful for the proprietor or proprietors to break
any hoghead of tobacco after it shall be passed and stamped, and to repack and prize the same
into small casks for the convenience of stowing, provided it be done at the warehouse where
the same was inspected and weighed, marked, and stamped; and the inspectors shall particu-
larize all such casks in their manifests to be given to the masters or skippers of the vessel in
which such tobacco be laden. *Provided always*, that nothing herein before contained, shall
be construed to prohibit any person from carrying, or causing to be carried to the said ware-
houses, in any boat or other vessel, any tobacco in bulk or parcels, for the payment of his or
her levies, debts or other duties, or to prohibit any person to put or take on board any boat
or other vessel, any hogheads or casks of tobacco, to be water-borne to any warehouse ap-
pointed by this act, so as the same be not carried out of the collectors or other officers of the
customs district wherein the said tobacco shall be made, nor to prohibit the owner of any to-
bacco to transport his crops, or any part thereof, in hogheads or casks, from one plantation
to another, for the better handling and managing thereof, nor any purchaser of tobacco from
bringing the same by water, to be repacked, sorted, stemmed, or prized, before the same be

No tobacco to
be taken on
board any ves-
sel in bulk or
parcels.
Penalties.

Proviso's for
undry pur-
poses.

carried to the said warehouses, so as such last mentioned tobacco be packed in hogheads or casks; but no tobacco on any pretence whatsoever, shall be carried or transported by water, to be inspected out of the district limited and appointed for the several collectors or other officers of the customs of this state, wherein the same shall be made, or being so carried, shall not be inspected or passed by any inspectors, knowing the same to be made out of such district, upon pain of forfeiting by the owner of such tobacco, and the inspectors who shall pass the same, ten dollars for every hoghead, to the informer. *Provided nevertheless*, that it shall and may be lawful for the inhabitants of Fleet's bay, on the south side of Indian creek, in the county of Lancaster, to carry their tobacco by water to the public warehouse at Indian creek; and the inhabitants at Warrasqueake bay, and the parts adjacent, to carry their tobacco to be passed at any warehouse in the upper district of James river.

Re-landed tobacco must be delivered at some public warehouse.

Penalty for landing it elsewhere, or opening hogheads and taking out tobacco. Exception as to tobacco landed in distress of weather. Provision as to damaged tobacco.

SEC. XLVII. IF the skipper of any boat or vessel, or the person or persons to whom the care and management thereof shall be entrusted, shall land or put on shore any hoghead, cask, or package of tobacco, put on board the same, to be carried to any public warehouse at any other place or places, than the warehouses by this act appointed for the reception and inspection of tobacco, or at some or one of them, or the wharves or other landing to such warehouse or warehouses belonging; or shall put the same on board any other vessel, or suffer the same to be done, so as the same be not delivered at some of the said public warehouses, without fraud or embezzlement; or shall open any hoghead or cask of tobacco so as aforesaid water-borne and landed, and take thereout any tobacco before the same be received by the inspectors according to the directions of this act; or after the same has been viewed, shall fraudulently open any hoghead or cask, and take thereout any tobacco, every such offence shall be judged felony, and the offender or offenders shall suffer as in the case of felony. *Provided always*, that nothing herein before contained, shall be construed to prohibit the landing, or putting on shore, any hoghead, cask, or package of tobacco, out of any boat or other vessel, which by distress of weather shall be forced aground, or become leaky, so as such landing be really and *bona fide* for the preservation of the tobacco laden in such vessel, and that the same may with all convenient speed be thereafter carried to the warehouse or ship (as the case may be) to which it was designed, without embezzlement. *Provided also*, that if by any of the accidents aforesaid, or negligence of the master or skipper of any vessel, any tobacco which hath been viewed and stamped, shall in its carriage to the ship in which it is intended to be exported, receive so much damage as that the master of such ship or vessel will not receive it on board, every hoghead or cask of tobacco so damaged, shall with convenient speed be carried to some warehouse appointed by this act, and there lodged until the owner of the said tobacco, or master of the vessel in which it was damaged, shall have separated the same, and repacked the good tobacco; and then the same shall be weighed and stamped with the weight by the inspector attending such warehouse, without fee or reward; but if the owner of such tobacco, or the master of the vessel in which it was damaged, shall fail or delay to separate and repack the same within ten days, then the inspectors at the warehouse where such damaged tobacco shall be landed, shall, and they are hereby required to separate, repack, weigh and stamp the same; and such inspectors shall receive of the owner two dollars for their trouble and nails.

Inspectors to keep books, &c.

and deliver manifests with each load of tobacco.

Tobacco may be re-landed or put on board other ships.

SEC. XLVIII. AND to the intent that the just quantity of tobacco exported may be more exactly known, and evil practices to defraud the public of the duty prevented; *Be it enacted*, that all inspectors shall carefully enter in a book, to be provided and kept for that purpose, the marks, numbers, gross, nett weight, and tare of all tobacco viewed and stamped by them as aforesaid, and in what ship or vessel the same shall be laden or put on board; and shall also, with every sloop or boat load of tobacco, send a list of the marks, numbers, gross, nett weight, and tare of every hoghead or cask of tobacco then delivered, to be given to the master of the ship or vessel in which the same shall be put on board; and if the tobacco delivered to the same sloop or boat is intended to be put on board several ships or vessels, then they shall deliver so many distinct and several lists as aforesaid, of the hogheads or casks, to be put on board such ship or vessel respectively. But whereas it may happen that the ship in which such tobacco was intended to be put, may be so full as not to be able to stow all the tobacco contained in such list, in such case it shall be lawful to ship the said tobacco, or any part thereof, on board any other ship or ships where the owner thereof shall think fit; the masters of such ships endorsing on the said lists the marks and numbers of the respective hogheads by them taken on board, and giving notice to the inspectors of the warehouse from which the same was brought; or if there be no ship to receive the said tobacco, then it shall be lawful for the master of the first mentioned ship or vessel, to put the said tobacco into any warehouse in the district where such ship or vessel shall ride, giving immediate notice thereof to the inspectors who stamped the same. And the inspectors of that warehouse where such tobacco shall be delivered, shall receive from the persons re-landing such tobacco, twenty five cents for every hoghead so re-landed, and shall give a receipt for the same, which money so received by the inspectors, shall be paid by them to the person or persons entitled to receive the rent of the said warehouse.

Masters of vessels to give in upon oath manifests of their tobacco when clearing out.

SEC. XLIX. EVERY master of a ship or vessel wherein tobacco shall be laden, shall at the time of clearing, deliver to the collector or other officer of the customs, a fair manifest of all the tobacco on board his ship or vessel, expressing the marks and numbers of every hoghead or cask, and the tare and nett weight stamped thereon, the person by whom shipped, and from what warehouse, and shall make oath thereto, and that the same is a just and true account of the

marks, numbers, tare and nett weight of each respective hoghead or cask, as the same was taken down by the person or persons appointed by him to take the same before the said tobacco was stowed away; and no ship or vessel shall be cleared by the collector, or other officer of the customs, before he shall have received such list and manifest, which shall, by the said collector, or other officer of the customs, be returned, upon oath, on or before the twenty-fifth day of October, annually, to the treasurer of this commonwealth for the time being; and every collector failing herein shall forfeit and pay the sum of three hundred dollars for every such failure.

SEC. L. ALL the penalties and forfeitures in this act contained, and not herein before particularly appropriated, shall be, one moiety to the commonwealth, to be applied towards defraying the charges of the execution of this act, and the other half to the person who shall inform and sue for the same; and shall be recovered with costs by action of debt or information in any court of record within this commonwealth, where the penalty exceeds five dollars, or two hundred pounds of tobacco, and where the same does not exceed those sums, before any justice of the peace of the county where the offence shall be committed.

Penalties how to be recovered.

SEC. LI. IN case any warehouses heretofore or hereafter established shall not for the space of three succeeding years receive a sufficient quantity of tobacco to pay the inspectors salaries and rents of the warehouses, the inspection of tobacco at such warehouses respectively, shall be thenceforth discontinued; unless the same shall be supported at private expence. *Provided*, that this clause shall not extend to the discontinuance at one time of two or more warehouses, which may be in the same county, or county next adjacent; but in such cases that warehouse shall be discontinued to which the smallest quantity of tobacco may be brought.

When warehouses shall be discontinued.

SEC. LII. THE public printer shall furnish one copy of this act to the inspectors at each of the warehouses herein mentioned.

Public printer to furnish in inspectors with copies of this act.

SEC. LIII. THE acting inspectors of tobacco at the several warehouses shall be, and they are hereby exempted from militia duty, except in case of actual invasion or insurrection.

Inspectors exempted from militia duty. Former acts repealed. *Provido*.

SEC. LIV. ALL acts, or parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

Commencement of this act.

SEC. LV. THIS act shall commence and be in force from and after the passing thereof.

C H A P. XIX.

An ACT reducing into one, the several Acts for regulating the Inspection of Flour and Bread.

[Passed December the 21st, 1792.]

SECTION I. **W**HEREAS the laws heretofore made for the inspection of flour, have been found defective, and it has become necessary to adopt some regulations for the prevention of frauds in the exportation of bread:

Preamble.

SEC. II. *BE it therefore enacted by the General Assembly*, That one inspector of flour shall be appointed at each of the following places, to wit:—Alexandria, Fredericksburg, Richmond, Petersburg, Blandford, West-point, Newcastle, York, Falmouth, Port-Royal, Hobb's-hole, Colchester, Dumfries, Manchester, Osborne's, Pocahuntas, Nomony, Broadway, Low-point in Surry, Suffolk, Hampton, South-Quay, Norfolk, Morgan's town, Smithfield, Fort-Wheeling, Lynchburg, Hanover town, Portsmouth, Cumberland town, at the mouth of Buffaloe-creek on the lands of Charles Prather, and at the mouth of Short Creek on the lands of David Chambers, in the county of Ohio.

Inspectors of flour to be appointed; places of inspection.

SEC. III. THE courts of the several counties in which the places aforesaid are situated, shall at their courts held in the months of September or October in every year, nominate and appoint a person of good repute, and who is a skilful judge of the quality of flour, to be inspector of flour at each of the places aforesaid. In case of the death of any person so appointed, or his refusal or neglect to act, the justices of the said counties respectively, or any three of them, shall as soon as conveniently may be thereafter, meet together and appoint some other person in the room of the one so dead, or refusing or neglecting to act, who shall execute the duties of his office, until the next court held for the county, where such vacancy may have happened; and at such court the justices shall appoint in manner before directed, some person to be inspector of flour for the residue of the year. If any of the said courts shall neglect to appoint such inspector at the time directed by this act, the governor, with the advice of the council, may supply such vacancy; and the person so appointed, having taken the oath herein after mentioned, before a justice of the peace, shall continue in office during the same time, and have the same power and authority as if he had been appointed by the court of the county.

Inspectors how to be appointed.

Wheat flour
not to be mix-
ed with any
other.

SEC. IV. ALL bolted wheat flour, and every cask thereof, brought to any of the places before-mentioned for exportation, shall be made by the miller or manufacturer thereof, merchantable and of due fineness, and without any mixture of coarser flour, or the flour of any other grain than wheat.

How barrels to
be made.

SEC. V. ALL bread and flour casks which shall be brought to any of the places before-mentioned for exportation, shall be well made, of good seasoned materials, tightened with ten hoops, sufficiently nailed with four nails in each chine hoop, and three nails in each upper bilge hoop; and the flour barrels shall be of the following dimensions, to wit: the staves shall be twenty-seven inches in length, and the heads seventeen inches and a half in diameter; and half barrels shall be of the following dimensions, to wit: the staves shall be of the length of twenty-three inches, and the diameter at each head of twelve inches and a half.

Millers and
bakers to keep
brand marks.
Penalty for
removing flour
and bread not
hooped, nailed
and branded.

SEC. VI. EVERY miller of flour and baker of bread for exportation, shall provide and keep a distinguishable brand-mark, with which he shall brand every cask of flour and bread, and mark thereon the tare and nett weight, before the same shall be removed from the place where it was bolted or baked, under the penalty of forty-two cents for every cask of flour not hooped and nailed as aforesaid, and for every cask of flour or bread so removed, and not branded and marked as aforesaid, to be recovered from such miller or baker, who shall neglect to comply with the directions of this act, or from the person who brings such flour or bread to any of the places aforesaid for sale; and in case the penalty aforesaid shall be recovered from the person bringing the said flour or bread for sale, such person shall and may recover the same from the miller, baker or bolter from whom such flour or bread was purchased or received; provided it appears that he gave notice to such miller, baker, or bolter, that he intended to carry the same to one of the places before-mentioned for sale or exportation, and that he requested such baker, miller or bolter, to secure and brand the said barrels.

Contents of
casks of flour.
Penalty for
deficiency in
the weight.

SEC. VII. EVERY miller and bolter shall put into a barrel the full quantity of one hundred and ninety-six pounds of flour, and shall put into every half-barrel the full quantity of ninety-eight pounds of flour; and if any one of them shall put a smaller quantity of flour into any cask than is directed by this act, he shall forfeit for the deficiency of every pound under three, eight cents, and for the deficiency more than three, seventeen cents.

Casks of bread
to be weighed
and tare mark-
ed thereon.
Inspector may
unpack flour
suspected to
be falsely
packed.

SEC. VIII. ALL casks wherein bread shall be packed, shall be weighed, and the tare marked thereon; and if any person shall put a false or wrong tare on any cask of bread, to the disadvantage of the purchaser, he or she shall forfeit for every cask so falsely tared, eighty-three cents; and the inspector, or his assistants, upon suspicion, or at the request of the purchasers, shall, and he is hereby required, to unpack any cask of flour or bread; and if there shall be a less quantity of flour than is above directed, or if the cask wherein bread is packed, shall be found to weigh more than is marked thereon, the miller, baker, or bolter (as the case may be) shall pay the charges of unpacking and repacking, over and above the penalties aforesaid; but otherwise the said charges shall be paid by the inspector, or by the purchaser, if the trial be made at his request.

Bakers to de-
liver manifests
with bread in-
tended to be
exported.
Penalty for
deficiency in
the weight.
Flour to be
inspected be-
fore exported.

SEC. IX. EVERY baker of bread for exportation, shall deliver with the said bread a manifest of the contents thereof, with his brand mark thereon, and his name subscribed thereto, under the penalty of seven dollars for every manifest delivered contrary thereto; and if any cask of bread be found lighter upon trial, than is set down in the manifest, he shall forfeit for every pound deficient, in the same proportion as is heretofore directed as to flour.

Marks when
inspected.
Fee for in-
spection.
Inspector to
condemn un-
merchantable
flour.

SEC. X. ANY cask of flour brought to any of the places before-mentioned, to be from thence laden or shipped for exportation, shall be submitted to the view and examination of the inspectors at such place, who shall inspect and try the same, by boring through the head with an instrument, not exceeding half an inch in diameter, to be by him provided for that purpose; and if he shall judge that the same is well packed and merchantable according to the directions of this act, he shall plug up the hole and brand the cask in the quarter, with the name of the place at which he is inspector, with a public brand-mark to be provided for that purpose; and shall also brand and mark the degree of fineness, which he shall on inspection, determine the said flour to be of, which degree shall be distinguished as follows, to wit: Superfine, fine, middling, ship-stuff; for which trouble the inspectors at Alexandria, Fredericksburg, Falmouth, Richmond, Manchester, Petersburg, Pocahuntas, and Blandford, shall have and receive of the owner of such flour, the sum of two cents for each cask, and at every other place of inspection, the inspectors shall be allowed three cents for each cask. No inspector shall pass any flour which shall prove on examination to be unmerchantable, according to the true intent and meaning of this act; but shall cause the same to be marked on the bilge with the word "condemned," or secure it for a further examination, if required, which examination the owner shall procure to be made within twenty days, and the inspector shall and may demand and receive from the owner or owners thereof, the same rate and prices as if the same had been passed. When any person shall think himself aggrieved by the judgment or want of skill in an inspector, in rejecting flour as unmerchantable; it shall be lawful for such person to apply to a justice of the peace, who shall at the charge of the complainant, issue a warrant directed to three indifferent persons, well skilled in the manufacture of flour, to view and examine the same; which said three persons having taken the same oath or affirmation, as by this act is herein after directed to

But the pro-
prietor may
have it re-
viewed.

be taken by every inspector of flour, shall carefully view and examine the same, and if they or any two of them shall pass and declare the same to be merchantable, in such case the inspector shall erase out the word "condemned," and put such brand on the said flour, as they or any two of them shall direct, and shall repay to the complainant his costs; but if on such review the judgment of the inspector shall be confirmed, in such case the owner of the flour shall pay the costs of such review; and the said inspector for his trouble, shall and may receive three cents for each cask by him received, in case his judgment shall be confirmed. It shall not be lawful for any person to export or lade on board of any ship or vessel for exportation out of this state, any cask of flour marked "condemned," by an inspector; or to export or lade on board of any ship or vessel for exportation, from any port or place within this state, any casks or barrels of flour not inspected or branded as aforesaid, on pain of forfeiting ten dollars for every cask or barrel exported or laden on board of any ship or vessel for exportation.

Penalty for
exporting con-
demned or un-
inspected flour

SEC. XI. AND whereas complaints have been made that evil disposed persons have packed flour and meal in old casks which have been branded agreeable to this act, by which means that valuable staple is often injured at foreign markets: *Be it enacted*, that if any person shall pack flour or meal of any kind whatsoever, in a cask which has been inspected and branded with the name of a miller, such person shall forfeit and pay twenty dollars for every barrel so falsely packed for sale, to be recovered by petition and summons in any county or corporation court, one half to the use of the informer, and the other half to the miller who has been injured by such false packing; and shall also be liable to the action of the party aggrieved.

Penalty for
packing flour,
&c. in old
casks which
have been
branded and
marked.

SEC. XII. *PROVIDED nevertheless*, That where any mill for the manufacturing of flour shall be situated on navigable water, below the falls, it shall be lawful for the owner of such mill to require the inspector of flour, who resides the nearest thereto, to attend and inspect the flour manufactured by him, and the inspector or his deputy is hereby required to inspect and brand all such flour, in the same manner as if such flour had been carried to the place at which he is inspector, and the proprietor may thereupon export the same in like manner, as if it had been inspected at any of the before-mentioned places.

When flour
may be in-
spected at mer-
chant mills.

SEC. XIII. EVERY inspector of flour before he enters on the execution of his office shall make oath or affirmation "That he will without favor, affection, malice or partiality, carefully inspect all flour brought to him, and which he shall be required to examine; that no flour shall be passed or branded by him without his inspecting the same; that he will not brand, or cause to be branded, as passed, any cask or casks of flour, that do not appear to him to the best of his skill and judgment, to be sufficiently clean, well ground, sweet and merchantable; that he will mark on all casks of flour the degree thereof, according to the directions of this act, that he will carefully examine the casks in which flour brought for inspection shall be contained, and that he will not pass or brand any such casks, unless they be of such size, goodness and thickness as by this act required."

Oath of in-
spectors.

SEC. XIV. NO inspector of flour shall directly or indirectly purchase any flour by him condemned, or any other flour whatsoever, other than for his own use, under the penalty of seven dollars for every barrel by him purchased.

Not to pur-
chase flour.

SEC. XV. IF any person shall alter the mark stamped on any cask of flour by an inspector, or shall mark or brand any cask of flour which has not been inspected, with any mark or brand similar to, or in imitation of an inspector's mark or brand, or after an inspector shall have passed any cask of flour as merchantable, shall pack into such cask any other flour, or after any cask of flour shall be branded "condemned," shall unpack and repack the same in other casks for exportation, such person shall forfeit and pay the sum of seven dollars for every cask.

Penalty for al-
tering the
mark of flour:
for marking
uninspected
flour.
For packing
other flour in
casks marked.
For packing
condemned
flour in other
casks.
When inspec-
tors may ap-
point deputies.

SEC. XVI. IF the quantity of flour which shall be brought to any of the above mentioned places for inspection, shall at any time be so great that the inspector cannot alone examine the same with sufficient dispatch; or if through sickness the inspector shall be incapable of discharging the duties of his office, on such occasions, it shall be lawful for him to appoint one or more persons of good repute, and good judges of the quality of flour to assist him in the execution of his office. Such assistants having taken the oath or affirmation prescribed by this act to be taken by an inspector, shall be authorized to inspect and brand any flour in the same manner as the inspector may do.

SEC. XVII. THE courts of the several counties in which the before-mentioned places are situated, may at any time remove from office any inspector of flour for neglect of duty, malfeasance, or corrupt practices, and may supply the vacancy occasioned thereby, by appointing another inspector for the residue of the year.

How they may
be displaced.

SEC. XVIII. THE penalties and forfeitures imposed by this act may be recovered by the informer before a single magistrate, where the penalty does not exceed five dollars, and where they are over that sum, but do not exceed twenty dollars, the same shall be recovered by petition in the same manner as is by law directed in case of petitions for the like sum of money, and where the penalty incurred shall exceed the sum of twenty dollars, the prosecutor may sue for the same in the court of the county, or corporation, where the defendant resides, or where the offence was committed, one half of which said penalties and forfeitures shall accrue to the use of the informer, and the other half to the use of the commonwealth, if not other-

Penalties how
recoverable.

Defendants may be ruled to give special bail.

wise appropriated. The prosecutor may make oath before the justice of the peace, of the nature of the action, and that he verily believes the defendant hath incurred the penalty and forfeiture thereby demanded, which the clerk upon a certificate thereof to him produced, shall endorse upon the back of the writ, and thereupon the defendant shall be ruled to give special bail.

Former acts repealed. Proviso.

SEC. XIX. ALL acts or parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements which have accrued, been vested, or incurred prior to the commencement of this act.

Commencement of this act

SEC. XX. THIS act shall commence and be in force from and after the passing thereof.

C H A P. XX.

An ACT to amend an Act, intituled, "An Act authorising the Executive to direct the Sheriffs to sell certain Lands the property of this Commonwealth."

[Passed November the 24th, 1792.]

Public lands not to be sold by the sheriffs unless the sales amount to the debts due to, and expenses incurred by the public.

SECTION I. **B**E it enacted by the General Assembly, That from and after the passing of this act, it shall not be lawful for any sheriff, to sell any tract or parcel of land belonging to this commonwealth, under the directions of an act, intituled, "An act authorising the Executive to direct the sheriffs to sell certain lands the property of this commonwealth," unless the same shall sell for the whole sum due to the commonwealth, including the original cost and the expenses attending the sale thereof, and excluding the damages imposed by the act, intituled, "An act to remedy abuses in the manner of selling lands for the payment of public taxes."

Surveyors fees to be paid out of the aggregate fund.

SEC. II. *AND be it further enacted*, That the fees of the county surveyors, as well for having surveyed any tract or parcel of land, which under the last recited act has already become the property of the commonwealth, and which have not been paid, as for making any future survey in pursuance of the said act, shall be paid out of the aggregate fund, and in no other manner.

Certain sheriffs and surveyors prohibited from purchasing such land, or interfering in the sales thereof, under certain penalties.

SEC. III. *AND be it further enacted*, That no sheriff or deputy sheriff, who hath been heretofore concerned in the sale of any the above described lands, and no surveyor or deputy surveyor, shall become the purchasers of any such lands, either directly or indirectly; and if contrary to the intent and meaning of this act, any sheriff or surveyor, or the deputy or deputies of either, shall become purchasers thereof, or interfere in any manner in the sale thereof, such purchase shall not only be null and void, but every such person and persons so offending, shall moreover forfeit and pay the sum of three hundred dollars; to be recovered by bill, plaint or information, in any court of record within this commonwealth, one half to the use of the informer, and the other half to the use of the commonwealth.

Conditions on which the former proprietors may redeem such lands. Their remedy against the sheriffs for surveyors fees received, when no surveys have been made.

SEC. IV. *WHENSOEVER* any lands as aforesaid, sold or to be sold, shall be redeemed or purchased, by the former proprietor, his or her agent or friend, acting in his or her behalf, such proprietor shall be exonerated from the payment of all costs, except those which have actually arisen upon the sale thereof, and in either case the release of the sheriff executed agreeably to the directions of the aforesaid first recited act, shall to all intents and purposes remit such former proprietor to, and reinstate him or her in their former estate in such land: And where such former sheriff shall have obtained a credit for any surveyor's fee as above mentioned, and shall not have had such survey actually made, in that case, the proprietor or proprietors as aforesaid, shall have the like remedy and proceedings against such sheriff and his securities, or either of them, as if the same had been redeemed before so sold; any law to the contrary thereof, notwithstanding.

Commencement of this act

SEC. V. THIS act shall commence and be in force from and after the passing thereof.

C H A P. XXI.

An ACT repealing the Act, intituled, "An Act providing a Sinking Fund for the gradual redemption of the Public Debt."

[Passed December the 7th, 1792.]

Act establishing sinking fund repealed.

SECTION I. **B**E it enacted by the General Assembly, That the act, intituled, "An act providing a sinking fund for the gradual redemption of the public debt," shall be and the same is hereby repealed.

Commencement of this act

SEC. II. THIS act shall commence and be in force from and after the passing thereof.

C H A P. XXII.

An ACT to repeal in part an Act, intituled, "An Act to prevent forestalling, regrating, engrossing, and Public Vendues."

[Passed October the 13th, 1792.]

BE it enacted by the General Assembly, That so much of the act of Assembly passed in the year one thousand seven hundred and seventy-seven, intituled, "An act to prevent forestalling, regrating, engrossing, and public vendues," as prohibits the sale of goods, wares and merchandizes at public vendue, shall be, and the same is hereby repealed.

So much of a former act as prohibits sales of goods at vendue repealed.

C H A P. XXIII.

An ACT for the relief of persons owning Surveys returned to the Register's-Office, on which no Patents can issue in consequence of the erection of Kentucky into an Independent State.

[Passed December the 17th, 1792.]

SECTION I. **W**HEREAS it is represented, that many persons previous to the erection of Kentucky into an independent state, have returned into the register's-office of this state, plats and certificates of surveys of land, lying in the now district of Kentucky, and which cannot now be passed into grants, by reason of the erection of the said district into an independent state: For remedy whereof, Preamble.

SEC. II. *BE it enacted,* That the register of the land-office shall, and he is hereby required, on application of the owners of such surveys, to deliver the same to him or his assigns; and the treasurer is also required to refund to the owners of such surveys, the sums of money or certificates paid by such owner or owners for the said grants, in order that they respectively be entitled to their locations in the state of Kentucky. Register to deliver certain surveys to the owners.

C H A P. XXIV.

An ACT authorising the General Court to appoint a Clerk pro tempore.

[Passed December the 17th, 1792.]

SECTION I. **W**HEREAS the office of clerk of the General Court hath become vacant, and no appointment can be made of another clerk until the sitting of the next General Court, whereby the public, as well as individuals, may sustain considerable injury: For remedy whereof, Preamble.

SEC. II. *BE it enacted by the General Assembly,* That it shall and may be lawful for any three judges of the General Court, (the chief justice being one) and they are hereby authorized to appoint a clerk of the said court, who upon taking the oath required by law before any justice of the peace, shall continue in office until the end of the next session of Assembly, for which period the said court shall allow him a reasonable compensation for his services. A clerk pro tempore to be appointed.

SEC. III. **THIS** act shall commence and be in force, from and after the passing thereof. Commencement of this act

C H A P. XXV.

An ACT remitting certain Militia Fines.

[Passed December the 22d, 1792.]

SECTION I. **B**E it enacted by the General Assembly, That all militia fines imposed since the commencement of the act, intituled, "An act remitting certain militia fines, and for other purposes," shall be, and the same are hereby remitted, pursuing in all cases the same rules and regulations as are prescribed by the above recited act, and one other act, intituled, "An act to amend and explain an act, intituled an act remitting certain militia fines, and for other purposes." Any thing in any law to the contrary, notwithstanding. Certain militia fines remitted.

SEC. II. **THIS** act shall commence in force from and after the passing thereof.

Commencement of this act

C H A P. XXVI.

An ACT to authorise the Executive to remit the Damages against delinquent Sheriffs in certain cases.

[Passed December the 22d, 1792.]

The executive
authorised to
remit damages
on judgments
against sheriffs
in certain cases
and on certain
conditions.

SECTION I. *BE it enacted by the General Assembly,* That the Executive be, and they are hereby authorised and empowered, upon application to them made, to remit all damages accruing on any judgment which hath been or shall be obtained against any sheriff or collector of the public revenue, or their security or securities, their executors, administrators, or other legal representatives of them, or any of them, for taxes due prior to the first day of November, one thousand seven hundred and ninety-one, in all such cases as they shall think reasonable or just. *Provided,* That such sheriff or collector, or their security or securities, making application as aforesaid, shall pay the balance of the principal, interest and costs of such judgment, on or before the first day of July next, and shall produce to the Executive a receipt or receipts from the auditor of public accounts, for the principal sum due on such judgment, together with the legal interest due thereon, and the costs.

Commence-
ment of this act

SEC. II. THIS act shall commence and be in force from and after the passing thereof.

C H A P. XXVII.

An ACT to provide more effectually for the Collection of the Public Taxes in certain Cases.

[Passed December the 26th, 1792.]

Preamble.

SECTION I. *WHEREAS* it hath been represented, that in many of the counties in this commonwealth, no person hath undertaken or would undertake the collection of the public taxes payable therein, so that the same still remain due and unpaid by the inhabitants thereof: For remedy whereof,

The executive
empowered to
appoint collec-
tors of taxes in
certain coun-
ties,

SEC. II. *BE it enacted by the General Assembly,* That the governor, with advice of the council, shall and he is hereby required to appoint and commission proper persons to collect the taxes of every county in this commonwealth where no collector hath been appointed, and undertaken the same by giving bond and security; and the person or persons so commissioned, shall before he or they proceed to the collection of the public taxes, give the like bond and security as is directed in the case of sheriffs, either in the court of the county in which he resides, in the court of the county of which he is appointed collector, or before the Executive. And the collector or collectors to be qualified under this act, shall receive the same commissions, and be liable to the same remedies, fines and penalties as sheriffs are subject to for a failure in the collecting, accounting for, and paying the public taxes. Every bond taken pursuant to this act, shall be as effectual to all intents and purposes, as those entered into by sheriffs for the collection of the public taxes.

And commissi-
oners to ascer-
tain the taxa-
ble property.

SEC. III. *AND* whereas no commissioners have been appointed in several counties, and from the neglect of commissioners in returning a list of the taxable property in several other counties, by reason whereof no collection of the public taxes have been or could be made: For remedy whereof, *Be it further enacted,* That the governor, with the advice of council, shall appoint three discreet and proper persons in each county, coming within the purview of this act, whose duty it shall be to enquire into and ascertain the taxable property in such county, (where the same hath not been done) on which arrears of taxes are still due; a copy of which return shall be delivered to the collector or collectors qualifying under this act, and one other copy transmitted to the auditor, from which list the collector shall proceed to collect the said taxes, and account for and pay the same. The commissioners appointed under this act, shall be liable to the same penalties, and be entitled to the same wages, as are prescribed for other commissioners, by an act, intituled, "An act prescribing the mode of ascertaining the taxable property within this commonwealth, and of collecting the public revenue."

Suits to be
commenced a-
gainst delin-
quent commis-
sioners of es-
tates sequester-
ed during the
late war.

SEC. IV. *AND be it further enacted,* That if any commissioner appointed by the governor and council, pursuant to the act passed in the year one thousand seven hundred and seventy-seven, intituled, "An act for sequestering British property, enabling those indebted to British subjects to pay off such debts, and directing the proceedings in suits where such subjects are parties," have failed to render a fair account upon oath of his disbursements and receipts of the estate committed to his management, or failed to pay the balance due on any account by him rendered, every such commissioner, or the executors or administrators of such as be dead, shall by order and direction of the Executive be sued in the name of the commonwealth, for the recovery of any balance which may remain in his or their hands.

Executive to
take proper
measures for

SEC. V. *AND be it further enacted,* That the Executive be, and they are hereby authorised and required to cause all legal ways and means to be exerted without delay, for the speedy

and effectual recovery of all debts and balances of every denomination, due and owing to the commonwealth, and make particular report of the situation thereof to the next session of the General Assembly.

SEC. VI. THIS act shall commence and be in force from and after the passing thereof.

the recovery of public debts; and make a report of their situation to the next assembly. Commencement of this act

C H A P. XXVIII.

An ACT providing for the Re-publication of the Laws of this Commonwealth.

[Passed December the 28th, 1792.]

SECTION I. **B**E it enacted by the General Assembly, That the declaration of rights, made by the representatives of the good people of Virginia assembled in full and free convention, which rights do pertain to them and their posterity, as the basis and foundation of government; and the constitution or form of government agreed to and resolved upon by the delegates and representatives of the several counties and corporations of Virginia, shall be prefixed to the code of laws as revised and enacted by the present session of the General Assembly; and that the following acts of assembly shall be published from the inrolled bills in the same code, to wit:—"An act for confirming and better securing the titles to land in the Northern Neck, held under the right honorable Thomas lord Fairfax, baron of Cameron in that part of Great-Britain called Scotland"—"An act for confirming the grants made by his majesty within the bounds of the Northern Neck"—"An act to empower the freeholders of the several towns not incorporated, to supply the vacancies of the trustees and directors thereof"—"An act concerning wrecks"—"An act to authorise the delegates of this state in Congress, to convey to the United States in Congress assembled, all the right of this commonwealth to the territory Northwestward of the river Ohio"—"An act for securing to authors of literary works, an exclusive property therein for a limited time"—"An act to approve, confirm and ratify the compact made by certain commissioners appointed by the General Assembly of the state of Maryland, and commissioners appointed by this commonwealth"—"An act for establishing religious freedom"—"An act to prevent frauds and perjuries"—"An act providing that wrongful alienations of land, shall be void so far as they be wrongful"—"An act to prevent the circulation of private bank notes"—"An act concerning aliens"—"An act directing that none shall be condemned without trial, and that justice shall not be sold or deferred"—"An act forbidding and punishing affrays"—"An act against conspirators"—"An act against conveying or taking pretended titles"—"An act prescribing the punishment of those who sell unwholesome meat or drink"—"An act for reforming the method of proceeding in writs of right"—"An act concerning partitions and joint rights and obligations"—"An act providing that actions popular prosecuted by collusion, shall be no bar to those which be prosecuted with good faith"—"An act declaring when the death of persons absenting themselves shall be presumed"—"An act for the relief of persons who have been or may be injured by the destruction of the records of county courts"—"An act to supply the defect of evidence of the royal assent to certain acts of assembly under the former government"—"An act to authorise the establishment of fire companies"—"An act for the appointment of harbour masters, and declaring their duty"—"An act concerning estrays"—"An act concerning public roads"—"An act directing what persons shall be let to bail"—"An act for the suppression and punishment of riots, routs and unlawful assemblies"—"An act against usury"—"An act prescribing the method of protesting inland bills of exchange, and allowing assignees of obligations to bring actions thereupon in their own names"—"An act to prevent the importation of convicts into this commonwealth"—"An act concerning the credentials of the senators of this commonwealth in Congress"—"An act allowing travelling expenses to the judges of the general court"—"An act against such as shall procure or commit wilful perjury, and against embracery"—"An act to regulate the inspection of hemp"—"An act to disable certain officers under the continental government, from holding offices under the authority of this commonwealth"—"An act concerning the territory ceded by this commonwealth to the United States"—"An act for safe keeping prisoners committed under the authority of the United States, into any of the jails of this commonwealth"—"An act authorising the governor of this commonwealth to convey certain lands to the United States, for the purpose of building a light-house"—"An act concerning homicide by misfortune"—"An act allowing a bill of exception to be sealed"—"An act concerning election of members of general assembly"—"An act concerning the election of members of the general assembly"—"An act concerning the erection of the district of Kentucky into an independent state"—"An act against those who counterfeit letters or privy tokens to receive money or goods in other mens names"—"An act against the embezzling of records"—"An act concerning the benefit of clergy"—"An act to provide against the appropriation of money by resolution of the two houses of assembly"—"An act for the cession of ten miles square or any lesser quantity or territory within this state, to the United States in Congress assembled, for the permanent seat of the general government"—"An act for the relief of creditors against fraudulent devisees"—"An act concerning awards"—"An act concerning the southern boundaries of this state"—and, "An act for regulating the navigation of James river above the falls of the said river."

Bill of rights and the constitution to be prefixed to the code of laws;

Acts to be published in the code with those which have been revised.

To be published in order as enacted, & the day of passing prefixed.

Sums of money & quantities of tobacco in the laws to be converted into dollars & cents in all process, entries, &c.

Executive to cause the code to be printed, with an index and marginal notes; how to be disposed of. How to be bound.

Commencement of this act

SEC. II. THE said laws shall be published in order, as they were enacted, and the day upon which they respectively passed, shall be prefixed to each act.

SEC. III. WHERE any of the laws of this commonwealth express any sum or sums of money in pounds, shillings, and pence, the clerks of the several courts within this commonwealth, in all process, entries, and orders respecting the same, shall reduce such sum or sums of money into dollars and cents; and where any quantity or quantities of tobacco shall be expressed in the said laws, the clerk shall in like manner, reduce the same into dollars and cents, at the rate of two dollars per hundred weight.

SEC. IV. AND be it further enacted, That the Executive shall cause a sufficient number of copies of the laws of this commonwealth as revised and enacted by the present session of assembly to be printed, with a complete index and marginal notes, ten copies of which shall be delivered to the Executive department, four copies to the clerk of each house of assembly, and one copy to each member of the present General Assembly, to each of the judges of the superior courts, to every justice of the peace, and the clerk of every court within this commonwealth; the cost of which shall be paid out of the contingent fund. Those copies which shall be delivered to the Executive, to the clerks of the two Houses of Assembly, to the clerks of courts, and to the judges of the superior courts, shall be well bound in calf skin, and the other copies shall be bound in boards.

SEC. V. THIS act shall commence and be in force from and after the passing thereof.

C H A P. XXIX.

An ACT declaring what Acts of the present Session shall be immediately in Force, and to suspend the Operation of all other Acts of the present Session, which are of a Public and permanent Nature.

[Passed December the 28th, 1792.]

Operation of all public and permanent acts of this session suspended until 1st Oct 1793

Certain acts excepted.

SECTION I. BE it enacted by the General Assembly, That the operation of all the acts passed during the present session of assembly, which are of a public and permanent nature, shall be, and the same are hereby suspended until the first day of October one thousand seven hundred and ninety-three.

SEC. II. PROVIDED nevertheless, That nothing herein contained, shall be construed so as to suspend the operation of the following acts, viz. "An act for appointing electors to choose a President and Vice-President of the United States"---"An act giving further time to the owners of entries on the western waters to survey the same"---"An act, for reducing into one act, the several acts concerning the court of appeals, and special court of appeals"---"An act for regulating the militia of this commonwealth"---"An act for arranging the counties of this commonwealth into districts, to choose representatives to Congress"---"An act for appropriating the public revenue"---"An act remitting certain militia fines"---"An act giving further time to the owners of surveys, to return the same into the land-office"---"An act for ascertaining the salaries to the officers of civil government"---"An act for establishing a bank in the town of Alexandria"---"An act empowering the Executive to advance to the Public Printer, a sum of money for the purposes therein mentioned"---"An act, to amend the act, intitled, an act authorising the Executive to direct the sheriffs to sell lands, the property of this commonwealth"---"An act for reducing into one, the several acts of assembly for the inspection of tobacco"---"An act to reduce into one, the several acts concerning the recovery of debts due to the public, and the sale of lands for judgments on behalf of the commonwealth against public officers"---"An act to reduce into one, the several acts concerning the county and other inferior courts of this commonwealth"---"An act repealing the act, intitled, an act providing a sinking fund for the gradual redemption of the public debt"---"An act reducing into one, the several acts concerning the establishment, jurisdiction and powers of district courts"---"An act to authorise the Executive to remit damages in certain cases"---"An act, reducing into one, the several acts concerning the High Court of Chancery"---"An act for imposing a public tax for the year one thousand seven hundred and ninety-two"---"An act, reducing into one, the several acts concerning the General Court, and prescribing the manner of proceeding therein in certain cases"---"An act, for reducing into one, the several acts concerning executions, and for the relief of insolvent debtors"---"An act authorising the General Court to appoint a clerk *pro tempore*"---"An act concerning coin"---"An act, reducing into one, the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees and county levies"---"An act, reducing into one, the several acts for regulating the inspection of flour and bread"---"An act, for establishing a bank in the city of Richmond"---"An act to provide more effectually for the collection of the public taxes in certain cases"---and "An act declaring what remedy the commonwealth shall have in certain cases."

Commencement of this act

SEC. III. THIS act shall commence and be in force from and after the passing thereof.

An ACT for appointing Electors to choose a President and Vice-President of the United States.

[Passed October the 10th, 1792.]

SECTION I. *BE it enacted by the General Assembly,* That for the purpose of choosing twenty-one electors on behalf of this state, to vote for a president and vice-president of the United States, the several counties in this commonwealth shall be allotted into twenty-one districts, in manner following, to wit: The counties of Northampton, Accomack, and Princess Anne, shall compose one district; the counties of New-Kent, Henrico, Charles City, James City, York, Warwick, and Elizabeth City, shall compose another district; the counties of Hanover, Caroline, and Louisa, shall compose another district; the counties of Fluvanna, Albemarle, Amherst, and Goochland, shall compose another district; the counties of Orange, Culpeper, and Spotsylvania, shall compose another district; the counties of King and Queen, King William, Essex, Middlesex, Gloucester, and Mathews, shall compose another district; the counties of Norfolk, Nansemond, and Isle of Wight, shall compose another district; the counties of Sussex, Southampton, Surry, Prince George, and Greenville, shall compose another district; the counties of Brunswick, Dinwiddie, and Mecklenburg, shall compose another district; the counties of Amelia, Nottoway, Chesterfield, and Powhatan, shall compose another district; the counties of Prince Edward, Buckingham, Cumberland, and Lunenburg, shall compose another district; the counties of Halifax, Charlotte, and Pittsylvania, shall compose another district; the counties of Bedford, Campbell, Franklin, Henry, and Patrick, shall compose another district; the counties of Richmond, Northumberland, Lancaster, Westmoreland, and King George, shall compose another district; the counties of Prince William, Stafford, and Fairfax, shall compose another district; the counties of Fauquier, and Loudoun, shall compose another district; the counties of Frederick and Berkeley, shall compose another district; the counties of Rockingham, Augusta, and Shenandoah, shall compose another district; the counties of Bath, Botetourt, Rockbridge, Greenbrier, and Kanawha, shall compose another district; the counties of Hardy, Hampshire, Pendleton, Randolph, Harrison, Monongalia, and Ohio, shall compose another district; and the counties of Wythe, Montgomery, Washington, and Russell, shall compose another district.

Arrangement
of the counties
in districts.

SEC. II. THAT the persons qualified by law to vote for members to the General Assembly, in each county composing a district, and in the cities and boroughs entitled to representation in the General Assembly, shall assemble at their respective courthouses, on the first Monday in November next, and on every first Monday in November, in every fourth year hereafter, and then and there vote for some discreet and proper person, being a freeholder, and *bona fide* resident in such district, for twelve months, as an elector for such district, to vote for a president and vice-president of the United States.

Who are to
vote.
Elections,
when & where
to be held;

SEC. III. THAT the high sheriff of each county, or in case of sickness or inability to attend, one of the deputy sheriffs, and the mayor or serjeant of each corporation, being first duly sworn by a magistrate of the county or corporation to act impartially, and a certificate of the taking such oath, under the hand of the magistrate delivered to him, shall conduct the said election; at which no determination shall be had by view, but each person qualified to vote shall fairly and publicly poll, and the name of the voter shall be duly entered under the name of the person voted for, in proper poll books, to be provided by the officer conducting the election, for which purpose he shall appoint so many writers as he shall think fit, who shall respectively take an oath to be by him administered, or make solemn affirmation, that they will take the poll faithfully and impartially. He shall deliver a poll book to each writer, who shall enter in distinct columns, under the name of the person voted for, the name of each voter, voting for such person. Like proclamation and proceeding shall be had for continuing and closing the poll in each county and corporation of a district, as prescribed by law, in the election of members to the General Assembly; and proclamation shall also be made at the courthouse door of the person having the greatest number of votes on the poll at the closing thereof.

By whom:

How to be
conducted.

SEC. IV. EACH voter shall be entitled to the same privilege from arrests, and be subject to the like penalty and forfeiture for failing to attend, and vote at such election, as prescribed by law in the election of members to the General Assembly; such failure to attend to be discovered and proceeded upon in like manner, and under the same penalties, as is by law prescribed against such failures in the election of members to the General Assembly.

Voters to be
privileged
from arrests.

SEC. V. IMMEDIATELY after each election in a county or corporation, the clerk of the polls having first signed the same, and made oath to the truth thereof, a certificate of which oath, under the hand of a magistrate of the county, shall be subjoined to each poll, shall deliver the same to the sheriff or other officer, who conducted the election, and such sheriff or other officer, together with the respective sheriffs who conducted the poll of the several counties in the district, except in the case of the disability or sickness of such sheriff, then any other sheriff of the county in which such sickness or disability may happen, shall, on the Monday next after the said election, assemble at the courthouse of the county first named in such district, and then and there compare the polls respectively taken at the election in their several counties and cor-

Sheriffs to
meet, compare
the polls and
certify elec-
tions.

Forms of the certificate.

porations, and having ascertained by faithful addition and comparison of the numbers on the respective polls, the person having the greatest number of votes upon the whole, giving their own votes, in any case of the two foremost on such poll having an equal number of votes, shall proceed to certify such election, under their hands and seals, in manner and form following, to wit: " We, A. B. sheriff of _____ county, or deputy sheriff, (as the case may be) " C. D. sheriff of _____ county, and E. F. mayor or serjeant (as the case may be) " of the city or borough of _____ (and so on, reciting the name of the sheriff or other " officer, whether principal or deputy, of each county, city, or borough in the district) " composing one entire district entitled by law to appoint an elector to vote for a president " and vice-president of the United States, do hereby certify and make known, that at an elec- " tion held on the first Monday of November, at the courthouses of our respective counties, " cities, and boroughs, pursuant to law, the voters qualified to vote for an elector to choose a " president and vice-president of the United States, caused to be chosen one person, to wit: " G. H. to represent the said district, as an elector to vote for a president and vice-president " of the United States. Given under our hands and seals, this _____ day of " one thousand seven hundred and _____

Certificates to be transmitted to the governor, and duplicates delivered to the electors. Names of electors to be published in the gazette. When and where they are to meet and vote.

SEC. VI. TWO fair duplicates of such certificate and return shall be made by the said sheriffs and other officers, under their hands and seals, in the manner before recited, one of which shall be delivered to the person elected to represent the district, and the other shall be transmitted to the governor and council, within fifteen days, under the penalty of three hundred dollars, upon such sheriff or other officer holding such election, in case of failure herein; to be recovered by motion in any court of record by the attorney-general, to the use of the commonwealth. And the governor and council shall thereupon advertise in the public gazette, the names of the persons so elected, who shall assemble in the city of Richmond on the first Wednesday in December next, and on every first Wednesday in the month of December in every fourth year thereafter, to vote for a President and Vice-President of the United States. Each elector chosen pursuant to this act, and failing to attend and vote for a President and Vice-President of the United States at the time and place herein directed, shall, except in cases of sickness or any other unavoidable accident, forfeit and pay six hundred dollars; to be recovered by the attorney-general, to the use of the commonwealth, by action of debt, bill, plaint, or information, in any court of record.

Poll books to be delivered to the clerks of the courts to be recorded.

SEC. VII. THE said sheriffs and other officers shall, under the penalty of one hundred and fifty dollars, to be recovered on motion by the attorney-general, to the use of the commonwealth, in manner aforesaid, deliver to the clerks of the respective counties, cities, or boroughs, within ten days after making their returns as aforesaid, the original poll-books, to be by such clerks entered of record, under the like penalty for failure as for failing to record the poll-books taken at the election of members to the general assembly, and recoverable in like manner.

Penalty on sheriffs for refusing to take the poll, or taking in other manner than herein directed, &c.

SEC. VIII. ANY sheriff, deputy sheriff, or other officer, refusing to take the poll, when he shall be required by a candidate or person qualified to vote for members to the General Assembly, or taking it in other manner than is herein before prescribed, or making or signing a false certificate or return of election as herein before directed, or making any erasure or alteration in the poll-books, or refusing to suffer any candidate or person qualified to vote, at his own expence, to take a copy of the poll-books, shall forfeit and pay three hundred dollars; which penalty may be recovered with costs, in action of debt, by any person who will sue for the same; one half to his own use, and the other half to the use of the commonwealth.

On candidates for bribing voters.

SEC. IX. ANY candidate or other person in his behalf, who shall directly or indirectly give or agree to give any voter or pretended voter, money, meat, drink, or other reward, in order to be elected, or for having been elected, shall forfeit and pay fifteen hundred dollars for each offence; to be recovered with costs, by action of debt, to the use of any person who will prosecute for the same.

Allowances to electors;

SEC. X. AND be it further enacted, That the electors so appointed to choose a President and Vice-President of the United States, shall be allowed for their travelling expences, seven cents per mile, and ferriages, and for their daily attendance, one dollar and sixty-seven cents, and be entitled to the same privileges from arrests as members to the general assembly. The same allowance shall be made to the sheriffs and other officers for their travelling expences and attendance for comparing the polls.

privileged from arrests.

No person to vote more than once for the same candidate.

SEC. XI. AND be it further enacted, That no person shall be allowed to vote more than once in the same year, for any elector to be chosen pursuant to this act.

Repealing clause.

SEC. XII. EVERY act coming within the purview of this act, is hereby repealed.

Commence-ment of this act

SEC. XIII. THIS act shall commence and be in force from and after the passing thereof.

C H A P. XXXI.

An ACT granting a Sum of Money for the Capitol.

[PASSED, December 26, 1792.]

SECTION I. **B**E it enacted by the General Assembly, That the sum of eight hundred and eleven pounds six shillings and one penny half-penny, shall be paid to the directors of the public buildings, for the purpose of discharging the debts due by them; and the further sum of two thousand pounds, together with the debts due by Archibald Cary, deceased, and Moses Austin and Company, when collected by the said directors, shall be appropriated, and applied by the said directors, for the purpose of finishing the inside of the Capitol, and erecting steps and platforms, and the directors are hereby required to let the said work to the lowest bidder, upon such terms as shall be most beneficial to the Commonwealth, after giving notice thereof in the Public Gazette, at least one month previous to the time appointed for that purpose.

Money to be paid to the directors of the public buildings; how to be applied. The work to be let to the lowest bidder.

SECT. II. THE auditor of public accounts, shall, upon orders from the executive, issue his warrants to the said directors of the public buildings, for the aforesaid sums of money, as the same shall become necessary.

Warrants when to be issued.

SECT. III. THIS act shall commence in force from and after the passage thereof.

Commencement of this act.

C H A P. XXXII.

An ACT to declare the time when certain Laws shall commence in force.

[PASSED, December 8, 1792.]

SECTION I. **B**E it enacted by the General Assembly, That all and singular the acts and laws herein after recited, which have been enacted during the present session of the General Assembly, shall, and the same are hereby declared to commence and be in force from and after the passing of this act; that is to say: An act, intituled, An act concerning a warrant issued to John Cox: An act, intituled, An act concerning Henry Stratton: An act, intituled, An act directing duplicates of a warrant and certificates to be issued to James Uphaw, junior, Christopher Robertson, and others: An act, intituled, An act concerning Thomas Newton, junior: An act, intituled, An act authorising the sale of land in the county of Prince Edward, in certain cases: An act, intituled, An act concerning John Fleming, and others: And, An act, intituled, An act to repeal in part, An act, intituled, An act to prevent forestalling, regrating, engrossing, and public vendues.

Certain acts to be in force from the passing thereof.

SECT. II. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this act.

C H A P. XXXIII.

An ACT concerning the Seal of the High Court of Chancery.

[PASSED, November 3, 1792.]

SECTION I. **B**E it enacted by the General Assembly, That it shall be lawful for the auditor of public accounts, and he is hereby directed to issue his warrant on the treasurer, in favor of George Wythe, judge of the high court of chancery, for the sum of twenty pounds, to be applied in aid of a sum formerly appropriated for procuring a seal for the said high court of chancery. The amount of the warrant, so to be issued, shall be paid out of any money in the treasury.

Money to be paid to the chancellor for a seal for the court of chancery.

SECT. II. THIS act shall commence in force from and after the passing thereof.

Commencement of this act.

C H A P. XXXIV.

An ACT empowering the Executive to advance to the Public Printer a Sum of Money for purposes therein mentioned.

[PASSED, November 24, 1792.]

SECTION I. **B**E it enacted by the General Assembly, That the Executive be and are hereby empowered to advance to the Public Printer, out of the Public Treasury, such sum or sums of money as they may deem necessary, to purchase a sufficient quantity of paper for printing the Revised Laws of this Commonwealth.

Money to be advanced to the public printer to procure paper for the revision.

SECT. II. THIS act shall commence in force from and after the passing thereof.

Commencement of this act.

C H A P. XXXV.

An ACT for the relief of Owners of Entries in the County of Henry.

[PASSED, November 17, 1792.]

SECTION I. **W**HEREAS by an act passed in October one thousand seven hundred and eighty-nine, intituled, *An act for supplying the loss of the entry book and field notes of the surveyor of the county of Henry*, it is enacted that the executive appoint commissioners for taking depositions respecting the same, to be subject to the directions of a future Assembly. AND WHEREAS, in conformity to the said act, sundry depositions have been returned to the Executive,

Preamble.

SECT. II. **B**E it therefore enacted, That the surveyor of Henry and Patrick counties, after application by him made to the executive for the said depositions, which they are hereby requested to furnish him, shall forthwith record the same in the entry books of the counties in which the lands respectively lie, which shall be as valid as if the said entries or field notes had not been lost: And it shall be lawful for the surveyors of the said counties to survey the entries aforesaid, and return plats thereof to the register of the land-office, who is hereby authorized and required to receive the same, and issue grants therefor in the same manner, and under the like regulations as patents were issued on such entries, at the time of the loss of the said entry book. *Provided*, That the same be returned on or before the first day of September, any law to the contrary, notwithstanding; and saving to the claimants of the said land, by prior title, the right of contesting the same.

Surveyors of Henry and Patrick to record certain depositions respecting the loss of an entry book and field notes, and to survey the entries. Plats thereof, when to be returned. Rights of others saved. Commencement of this act.

SECT. III. THIS act shall commence in force from and after the passing thereof.

C H A P. XXXVI.

An ACT to facilitate the intercourse of the Inhabitants of this Commonwealth with the State of Kentucky.

[PASSED, November 17, 1792.]

Preamble.

SECTION I. **W**HEREAS it is represented to the present General Assembly, that opening a waggon road from the block-house in the western extremity of the county of Washington, to the top of Cumberland mountain, in the county of Russell, (now Lee) being where the road from the state of Kentucky terminates, will be of great public utility in facilitating the intercourse from the extreme southwestern parts of this state with our eastern brethren at the seaport towns, and as the same, on account of the length of the way and the many difficulties attending the opening thereof, cannot be cleared by the ordinary method prescribed for opening roads; and as this Assembly are at all times willing to contribute every encouragement to such designs as are represented to be of general utility, as far as is consistent with prudence and good economy.

Commissioners to view and mark a way for a road from the blockhouse in Washington, to the top of Cumberland mountain. Their report to be made at the next assembly.

SECT. II. *Be it enacted*, that William Tate, John Anderson, Charles Cox, Walter Preston, James Fulkerfon, Thomas Berry and Thomas Wallen, gentlemen, be, and they are hereby appointed Commissioners, to explore, view, and mark out the best and most eligible way for a waggon road, from the said block-house, in the county of Washington, to the top of Cumberland mountain, in the said county of Russell, (now Lee) and to report to the next General Assembly, their opinion, with respect to the practicability of said road, the distance between the said places, and also an estimate of the expence which would necessarily be incurred in opening a waggon road as aforesaid.

C H A P. XXXVII.

An ACT authorising and directing the Court of the County of Rockingham, to levy a Sum of Money for the purpose therein mentioned.

[PASSED, October 24, 1792.]

Preamble.

SECTION I. **W**HEREAS under a law of this Commonwealth, passed at the October session of the General Assembly, in the year one thousand seven hundred and eighty, intituled, *An Act for supplying the army with clothes, provisions, and waggons*, the court of the county of Rockingham, to comply with the requisitions of the said law, appointed a certain John Hinton to purchase a waggon and team, which purchase the said John Hinton accordingly effected, but departed this life without having received the full amount of the purchase money. **AND WHEREAS** the decedent, by last will and testament, hath nominated Benjamin Hinton his executor,

The court of Rockingham to levy on the county a sum of money for the executor of John Hinton; To be collected by the sheriff.

SECT. II. *BE it therefore enacted by the General Assembly*, That the magistrates of the said county of Rockingham, shall, at some court to be holden for the same, in the months of April, May, or June next, having first settled and ascertained the balance remaining due to the estate of the deceased, proceed to assess and levy the amount thereof upon the taxable property within the said county, or be liable, on failure thereof, to the same penalties as are imposed by the said recited act.

SECT. III. **THE** sheriff or collector of the levy or assessment to be made in pursuance of this act, is hereby empowered and directed to make the collection, and to distrain for the same on refusal or neglect of payment; and shall receive a commission for so doing as for collecting taxes; and on the completion thereof, shall pay the balance due to the estate of the decedent, as the same may have been ascertained by the court, to Benjamin Hinton, the executor.

Remedy against him for failing to pay it.

SECT. IV. **AND** in case such sheriff or collector shall fail or refuse to account for and pay the levy or assessment directed by the said court, by the time limited, he shall be liable to like penalties as are imposed by the said recited act, to be recovered in the like manner.

Commencement of this act.

SECT. V. **THIS** act shall commence and be in force from and after the passing thereof.

C H A P. XXXVIII.

An ACT authorising and directing the Courts of the Counties of Hampshire and Hardy, to levy a Sum of Money for the purpose therein mentioned.

[PASSED, December 21, 1792.]

The courts of Hampshire and Hardy to levy on their counties a sum of money for William Johnson.

SECTION I. **BE it enacted by the General Assembly, That the courts of each of the counties of Hampshire, and Hardy, shall, and they are hereby respectively empowered and required, upon application to them made, for that purpose, to proceed to adjust and settle the claim of William Johnson, for a waggon and team purchased and paid for by him in the year one thousand seven hundred and eighty-one, for the use of the said county of Hampshire, pursuant to the directions of an act of Assembly intituled, *An act for supplying the army with clothes, provisions, and waggons*. When the said claim shall be liquidated by the said courts, it shall be lawful for the magistrates thereof to levy and assess the amount on the tithable persons of the said counties, in proportion to the numbers in each.**

To be collected by the sheriffs.

SECT. II. *AND be it further enacted*, That the sheriffs or collectors of the levies or assessments to be made in pursuance of this act, are hereby empowered and directed to make the collections, and to distrain for the same, on refusal or neglect of payment, and shall receive a commission for so doing as for collecting taxes; and on the completion thereof, shall pay the balance due to the said William Johnson, as the same may have been ascertained by the said courts.

Remedy against them for failing to pay the money.

SECT. III. **IN** case any such sheriff or collector shall fail or refuse to account for and pay the levies or assessments directed by the said courts, by the time limited, they shall be liable to judgment on motion in the courts of the said counties of Hampshire and Hardy, upon receiving ten days previous notice of any such motion.

Penalty on the justices for failing to make the levy.

SECT. IV. **IF** the courts of the said counties of Hampshire and Hardy, directed to meet in pursuance of this act, shall fail so to do, or meeting, shall fail to make or order the levies or assessments hereby directed to be made, every justice qualified to act in his office in such counties, shall forfeit and pay three pounds.

Commencement of this act.

SECT. V. **THIS** act shall commence and be in force from and after the passing thereof.

C H A P. XXXIX.

An ACT authorising and directing the Court of the County of Southampton, to levy a Sum of Money for the purposes therein mentioned.

[PASSED, December 17, 1792.]

SECTION I. WHEREAS it is represented to this present General Assembly, That a certain Lewis Joyner, did, from the year one thousand seven hundred and eighty-two, to the year one thousand seven hundred and eighty-five, inclusive, act as one of the churchwardens of the parish called Nottoway, in the county of Southampton, during which time he made considerable advances to the poor of the said parish, the amount of which is still due to him, from the failure of the court of the said county, to make provision for paying the same.

Preamble.

SECT. II. BE it therefore enacted, That the magistrates of the said county of Southampton, shall, at some court to be holden for the same, in the months of March or April next, having first settled and liquidated the claim of the said Lewis Joyner, including interest thereon, proceed to levy and assess the amount thereof, on the tithable persons residing in that part of the said county of Southampton, which composed the parish of Nottoway.

The court of Southampton to levy a sum of money on the county for Lewis Joyner.

SECT. III. THE sheriff or collector of the levy or assessment to be made in pursuance of this act, is hereby empowered and directed to make the collection, and to distrain for the same, on refusal or neglect of payment, and shall receive a commission for so doing, as for collecting taxes; and on the completion thereof shall pay the balance due to the said Lewis Joyner, as the same may have been ascertained by the said court.

To be collected by the sheriff.

SECT. IV. IN case such sheriff or collector shall fail or refuse to account for and pay the levy or assessment directed by the said court, by the time limited, he shall be liable to judgment on motion in the court of the said county of Southampton, upon his receiving ten days previous notice of such motion.

Remedy against him for failing to pay it.

SECT. V. IF the court of the said county of Southampton, directed to meet in virtue of this act, shall fail so to do, or meeting, shall fail to make or order the levy or assessment hereby directed to be made, every justice qualified to act in his office in such county, shall forfeit and pay ten pounds.

Penalty on the justices for failing to lay the levy.

SECT. VI. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this act.

C H A P. XL.

An ACT authorising the Court of the County of Halifax to appoint a person or persons to convey titles to certain Lands in the said County.

[PASSED, November 28, 1792.]

SECTION I. WHEREAS it is represented to the General Assembly, That Matthew Sims, late sheriff of the county of Halifax, did, (in pursuance of an act, intituled, *An act to remedy abuses in the manner of selling lands for the payment of public taxes*), sell sundry tracts or parcels of land within the county aforesaid, for the taxes accruing in the years one thousand seven hundred and eighty-seven, and one thousand seven hundred and eighty-eight; and that the said Matthew Sims, departed this life before surveys of the lands so by him sold could be made; and the purchasers thereof have of course been unable to obtain legal titles to the same; BE it enacted, That the court of the said county of Halifax shall, and may nominate and appoint some discreet and fit person or persons to execute the necessary deed or deeds for conveying the lands sold as aforesaid, within the said county, to the respective purchaser or purchasers thereof; which said deed or deeds, executed by the person or persons appointed under the authority of this act, shall be deemed and considered as valid, and binding in the law as if the said Matthew Sims had executed the same in his life-time: *Provided always*, That no person appointed by the county court of Halifax for the purpose aforesaid, shall proceed to act under such appointment, until the same shall have been certified to him by the clerk of the said court under the seal of his office, and shall have been entered of record therein.

*Preamble.**Court of Halifax to appoint a person or persons to convey certain lands sold by a former sheriff. Provide.*

SECT. II. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this act.

C H A P. XLI.

An ACT concerning the Nottoway Tribe of Indians.

[PASSED, November 12, 1792.]

SECTION I. WHEREAS it is represented to this present General Assembly, by the Nottoway tribe of Indians, residing in the county of Southampton, that for their better support they did in the year one thousand seven hundred and seventy-two, lease to certain persons, a considerable tract of land lying in the said county, which lease will expire in the year one thousand seven hundred and ninety-three; and in order to raise a fund for their future support, the said tribe of Indians have petitioned this Assembly for a law to pass, authorising a sale of the said tract of land, and that trustees may be appointed to join them in the conveyance thereof;

Preamble.

SECT. II. BE it therefore enacted, That James Wilkinson, John T. Blow, Thomas Vaughan, Thomas Edmunds, John Taylor, Thomas Ridley and Robert Goodwin, gentlemen, are appointed trustees for the said Indians.

Trustees appointed.

SECT. III. IT shall be lawful for the said tribe of Indians, under the direction and with the approbation of the said trustees, or any five of them, to proceed to sell the said tract of land upon twelve months credit; upon which sale being made the said trustees, or any five of them, shall be, and they are authorised and empowered to join the said tribe of Indians, in conveying the same to the purchaser or purchasers, in fee.

The Indians may sell their lands with the consent of the trustees.

SECT. IV. IT shall moreover be the duty of the said trustees, to take bonds and sufficient security, payable to themselves and their successors, for the amount of the purchase money for the said land, and so soon as the same shall be paid into their hands, it shall be lawful for them or any five of them, to lay out such amount in the purchase of public securities, and to draw the interest arising therefrom, and apply the same, if sufficient, if not, so much of the principal as the said trustees or any five of them may deem necessary, for the maintenance and support of each of the said Indians, so long as there be any of the said tribe living; and should the said tribe become extinct, the said trustees, or the survivors or survivor of them, shall thereupon pay so much of the purchase money and interest, as shall remain unapplied, into the public treasury.

Purchase money how to be secured and applied by them.

SECT. V. AND be it further enacted, That upon the death, resignation, or removal out of the said county, of any of the said trustees, it shall and may be lawful for the remaining trustees, or a majority of them, to supply the vacancy occasioned by such death, resignation, or removal, and the persons so appointed by the said trustees, shall have as full power and authority to act as if they had been herein particularly mentioned.

Vacancies in the trustees how to be supplied.

C H A P. XLII.

An ACT empowering the County Court of Northampton to appoint Trustees for the purpose of protecting the rights of the Gingaskin Tribe of Indians.

[PASSED, December 11, 1792.]

Preamble.

SECTION I. **W**HEREAS it hath been represented to the present General Assembly, That it will contribute to the interest of the Gingaskin tribe of Indians, resident in the county of Northampton, if trustees were appointed to dispose of their lands in the said county, for their support:

Trustees to be appointed to dispose of the Indians land and divide the profits amongst them. *Provido.*

SECT. II. *BE it therefore enacted*, That the court of the county of Northampton shall be, and they are hereby empowered and required to appoint five trustees, whose duty it shall be, or a majority of them, to meet at some convenient place within one month after their appointment to make such disposition, by lease or otherwise, of the lands aforesaid, as to them shall seem most proper; and to distribute the profits arising therefrom in such proportions amongst the said Indians, as they, or a majority of them, shall think just and right: *Provided*, that such lease or leases do not exceed the term of seven years.

Vacancies in the trustees how to be supplied.

SECT. III. *AND be it further enacted*, That in case of vacancy of any of the said trustees, by death, resignation or otherwise, the said justices or their successors shall supply the vacancy occasioned thereby, and the said trustees, when appointed, shall have the same power and authority as if particularly named in this act.

Disputes between the Indians and their trustees how to be settled. Commencement of this act.

SECT. IV. *AND* the said justices, or their successors, shall also from time to time settle and determine any dispute that may arise between the trustees and the said Indians.

SECT. V. THIS act shall commence in force from the passing thereof.

C H A P. XLIII.

An ACT to amend the several Acts for opening a Waggon Road from the State Road to the mouth of the Little Kanawha.

[PASSED, December 7, 1792.]

Preamble.

SECTION I. **W**HEREAS the taxes due in each of the counties of Harrison, Monongalia, Ohio, and Randolph, prior to the year one thousand seven hundred and ninety, were, by an act of Assembly, passed on the twelfth day of December, one thousand seven hundred and eighty-nine, appropriated for the purpose of opening a waggon road from the state road to the mouth of the little Kanawha: And it is represented that considerable balances of the said taxes so appropriated, are still due from the sheriffs of the said counties, who cannot be compelled to pay the same in the mode prescribed by law:

Remedy against sheriffs failing to account for taxes appropriated to the clearing the road. *Provido.*

SECT. II. *BE it therefore enacted by the General Assembly*, That it shall and may be lawful for the commissioners appointed to superintend the opening of the said road, to obtain a judgment or judgments against all or any of the sheriffs or collectors, or their securities, of the taxes so as aforesaid, appropriated for any balance or balances thereof, now due from him or them, by motion in any court of record within this Commonwealth, and to obtain executions for the same in like manner, and under the same rules and regulations as are prescribed in the case of executions issued in behalf of the Commonwealth. *Provided always*, That every such sheriff or collector, or their securities, shall have ten days previous notice, in writing, of every such motion.

The sum to be recovered not to exceed the original appropriation.

SECT. III. *PROVIDED also*, That the balances so to be recovered, or received from the said sheriffs, shall not exceed the original appropriation of two thousand pounds.

C H A P. XLIV.

An ACT for giving certain powers to the Commissioners of the road, from Morgan-Town to the mouth of Fishing Creek.

[PASSED, December 19, 1792.]

Remedy against sheriffs failing to pay taxes appropriated to the clearing the road.

SECTION I. **B**E it enacted by the General Assembly, That the commissioners, or a majority of them, appointed by the act, intitled, *An act appropriating certain public taxes to the opening a waggon road from the state road to the mouth of the Little Kanawha, and for other purposes*, for the purpose of opening a waggon road from Morgan's town to Fishing creek, on the Ohio river, shall have the same power and authority, for the completion of the collection of the taxes appropriated for the purpose of opening the said road, as is given by an act of the present session of Assembly, to the commissioners appointed to superintend the opening a waggon road from the state road to the mouth of the Little Kanawha.

Commencement of this act.

SECT. II. THIS act shall commence and be in force from and after the passing thereof.

C H A P. XLV.

An ACT to appoint Commissioners for certain purposes in the County of Halifax.

[PASSED, October 13, 1792.]

Commissioners to view the lands at Irvin's & Boyd's ferries, and report which is the best situation for a tobacco inspection.]

SECTION I. **B**E it enacted by the General Assembly, That Thomas Watkins, David Clark, George Carrington, Henry Coleman, William Hudson and William Payne, junior, Gentlemen, or any three of them, shall, and they are hereby required to examine the situation of the lands at Irvin's and Boyd's ferries in the county of Halifax, and make report to the next Assembly which of them is the most eligible and convenient place for establishing an inspection of tobacco.

C H A P. XLVI.

An ACT appointing Trustees for the sale of certain lands, the property of the Tinkling Spring Congregation, in the County of Augusta.

[PASSED, December 6, 1792.]

SECTION I. WHEREAS it has been represented to the General Assembly, That a number of persons resident in the county of Augusta, called and known by the name of the Tinkling Spring Congregation, purchased from a certain William Thompson, a tract or parcel of land for the purpose of erecting thereon a house of worship, and caused the same to be vested in trustees for their benefit, all of whom are since dead; AND WHEREAS the house of worship erected thereon as aforesaid, has nearly gone to decay, and it is the wish of the said congregation to dispose of such part of the said land, as may be sufficient to repair the same, or build others:

Preamble.

SECT. II. BE it therefore enacted by the General Assembly, That Walter Davis, James Steel, Andrew Fulton, Benjamin Stuart, James Frazer, Joseph Bell, and Robert Stuart, gentlemen, belonging to the said congregation, or a majority of them, are hereby appointed trustees, with power to dispose of and convey by deed duly executed, such part of the said tract or parcel of land, as in their opinion, may be deemed necessary for the purpose aforesaid.

Trustees appointed to sell part of the lands.

SECT. III. AND be it further enacted by the General Assembly, That the said trustees or a majority of them, shall have power from time to time, to fill up vacancies occasioned in their number, either by death, change of residence, or resignation, which trustees so appointed, shall have the same power and authority, as if they had been particularly named in this act.

Vacancies how to be supplied.

SECT. IV. THE right to the said tract or parcel of land, as vested in the trustees appointed by the said congregation, shall revive and continue in the trustees appointed by this act, and their successors, chosen as herein directed, in the like quantity and quality, as conveyed to and enjoyed by the original trustees.

Right of former trustees transferred to those appointed by this act.

C H A P. XLVII.

An ACT authorizing the sale of lands in the county of Prince Edward in certain cases.

[PASSED, October 25, 1792.]

SECTION I. WHEREAS it is represented to this present General Assembly, That William Bibb, sheriff of the county of Prince Edward, for the years one thousand seven hundred and eighty-eight, and one thousand seven hundred and eighty-nine, did some time within those years remove to the state of Georgia, whereby no sale of lands could legally be made to discharge the taxes due on the said first mentioned year; and that his deputy sheriffs will thereby be much involved and injured: For remedy whereof,

Preamble.

SECT. II. BE it enacted, That John Watson shall be, and he is hereby authorized and required, to sell and convey so much of the lands in the said county, whereon sufficient distress cannot be made for that purpose, as will discharge the taxes due for such lands in the said year one thousand seven hundred and eighty-eight, in like manner, and under the same rules, allowance, regulations and restrictions, as directed and prescribed by law for high sheriffs.

John Watson authorized to sell certain lands the taxes on which are unpaid.

C H A P. XLVIII.

An ACT appointing Trustees in the county of Prince Edward, for the purposes therein mentioned.

[PASSED, December 8, 1792.]

SECTION I. WHEREAS the glebe lands and other property, belonging to the episcopal church, in the parish of Saint Patrick, in the county of Prince Edward, were sold in pursuance of an act of the General Assembly in that case made, and the money arising from the sales thereof, has remained in the hands of individuals in the said county, from the period of the said sale.

Preamble.

SECT. II. BE it therefore enacted by the General Assembly, That Thomas Scott, Charles Allen, John Morton, William Wooten and James Morton, gentlemen, or any three of them, be, and are hereby appointed trustees, with full power to receive, sue for, and recover the same, from all and every person and persons whomsoever, their heirs, executors, and administrators, and the same when so received, to retain in their hands subject to such appropriation as a court of the said county, composed of twelve magistrates at least, shall consider most just and beneficial for their said county.

Trustees appointed to recover the money raised by the sale of the glebe, &c.

SECT. III. IF the said trustees, or those of them who shall act, shall fail to account to the said court for all or any monies which they may receive, pursuant to this act, in that case the said court may recover such money by motion to the district court of Prince Edward, against such trustees, on giving them ten days previous notice of such motion.

The money how to be disposed of. Summary remedy against the trustees if they fail to account. Commencement of this act.

SECT. IV. THIS act shall commence in force from the passing thereof.

C H A P. XLIX.

An ACT for dividing the county of Russell into two distinct counties.

[PASSED, October 25, 1792.]

SECTION I. BE it enacted by the General Assembly, That from and after the thirteenth day of May next, all that part of the county of Russell, which lies westwardly of a line beginning on the top of Clinch mountain, one mile eastwardly of big Maukason gap, thence a direct course to the mouth of Stock creek, thence up the same to Powell's mountain, thence due north to the Kentucky boundary, shall form one distinct county, and be called and known by the name of Lee; and the residue of the said county, shall retain the name of Russell.

New county formed of part of Russell.

Name.

SECT. II. A COURT for the said county of Lee, shall be held by the justices thereof on the second Tuesday in every month, after the same shall take place, in like manner as is provided by law for other counties, and shall be by their commissions directed.

Court day.

SECT. III. THE justices to be named in the commission of the peace for the said county of Lee, shall meet at the house of Isaac Chrisman in the said county, upon the first court day after the said county shall take place, and having taken the oaths

First meeting of the justices, when and where;

To appoint a clerk and fix on a place for holding courts.

prescribed by law, and administered the oath of office to, and taken bond of the sheriff according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county, at or as near the centre thereof as the situation and convenience will admit, and thenceforth the said court shall proceed to erect the necessary public buildings at such place, and until such buildings be completed, to appoint any place for holding courts as they shall think proper. *Provided always*, That the appointment of a place for holding courts, and of a clerk, shall not be made unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such case the appointment shall be postponed until some court day when a majority shall be present.

Public dues and fees in new county, how to be collected.

SECT. IV. *PROVIDED also, and be it further enacted*, That it shall be lawful for the sheriff of the county of Russell, to collect and make distress for any public dues and officers fees remaining unpaid by the inhabitants thereof, at the time the said county of Lee shall take place, and shall be accountable for the same, in like manner as if this act had not been made.

First sheriff, how to be appointed.

SECT. V. THE governor, with advice of the council, shall appoint a person to be first sheriff of the said county, who shall continue in office during the term, and upon the same conditions as are by law prescribed for other sheriffs.

SECT. VI. THE court of the said county of Russell shall have jurisdiction of all actions and suits which shall be depending before them when the said county of Lee takes place, and shall try and determine the same, and award execution thereon.

New county, to what senatorial district to be annexed.

SECT. VII. IN all future elections of a senator, the said county of Lee shall be of the same district as the said county of Russell.

C H A P. L.

An ACT for dividing the County of Culpeper.

[PASSED, December 4, 1792.]

New county formed of part of Culpeper.

SECTION I. **B**E it enacted by the General Assembly, That from and after the first day of May next, all that part of the county of Culpeper; within the following bounds, to wit: Beginning at the mouth of Robinson river, thence up the same to the mouth of Crooked run, thence up the said run to the mountain road, where Tennant's church formerly stood, thence a straight course to the head of Hugh's river in the Blue ridge, thence the same course continued to the top of the ridge, and to the line of Shenandoah county, thence westwardly on the top of the ridge with the lines of the counties of Shenandoah and Rockingham, to the line of Orange county, thence with the line of Orange to the beginning, shall form one distinct county, and be called and known by the name of Madison.

Name.

Court day.

SECT. II. A COURT for the said county of Madison shall be held by the justices thereof on the fourth Thursday in every month after the same shall take place, in like manner as is provided by law for other counties, and shall be by their commissions directed.

First meeting of the justices, when and where.

SECT. III. THE justices to be named in the commission of the peace for the said county of Madison, shall meet at the house of John Yager, junior, in the said county, upon the first court-day after the said county shall take place, and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of the sheriff according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county, at or as near the center thereof as the situation and convenience will admit, and thenceforth the said court shall proceed to erect the necessary public buildings at such place, and until such buildings be completed, to appoint any place for holding courts as they shall think proper. *Provided always*, That the appointment of a place for holding courts, and of a clerk, shall not be made unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such case the appointment shall be postponed until some court-day when a majority shall be present.

To appoint a clerk, and fix on a place for holding courts.

Public dues and fees in new county, how to be collected.

SECT. IV. IT shall be lawful for the sheriff of the county of Culpeper to collect and make distress for any public dues and officers fees which shall remain unpaid by the inhabitants of the said county of Madison, at the time the said county shall take place, and shall be accountable for the same in like manner as if this act had never been made.

First sheriff, how to be appointed.

SECT. V. THE governor, with the advice of council, shall appoint a person to be first sheriff of the said county of Madison, who shall continue in office during the term and upon the same conditions as are by law appointed for other sheriffs.

SECT. VI. THE court of the said county of Culpeper shall have jurisdiction of all actions and suits depending before them at the time the said county of Madison takes place, and shall try and determine the same, and award execution thereon.

New county, to what districts annexed.

SECT. VII. THE said county of Madison shall remain in the same district with Culpeper, for which district courts are holden in Fredericksburg, to all intents and purposes as if this act had not been made. In all future elections of a senator, the said county of Madison shall be of the same district as the said county of Culpeper.

C H A P. LI.

An ACT for dividing the county of Wythe.

[PASSED, November 7, 1792.]

New county formed of part of Wythe.

SECTION I. **B**E it enacted by the General Assembly, That from and after the first day of May next, all that part of the county of Wythe, within the following bounds, to wit: Beginning in Washington line, where it joins the Iron mountain, then e along the said mountain to a spur of the same, that forms Ewings's mountain, keeping the ridge that divides the waters of Cripple and Bush creeks to the top of the said mountain; thence a straight course to the Poplar Camp mountain by Rose's mill; thence to the mouth of Greaty creek; thence a straight course to Montgomery line, shall form one distinct county, and be called and known by the name of Grayson.

Name.

Court day.

SECT. II. A COURT for the said county of Grayson, shall be held by the justices thereof on the third Tuesday in every month after the same shall take place, in like manner as is provided by law for other counties, and shall be by their commission directed.

First sheriff how to be appointed.

SECT. III. THE governor with advice of the council, shall appoint a person to be first sheriff of the said county, who shall continue in office during the term, and upon the same conditions as are appointed by law for other sheriffs.

First meeting of the justices, when and where. To appoint a clerk and fix on a place for holding courts.

SECT. IV. THE justices to be named in the commission of the peace for the said county of Grayson, shall meet at the house of William Bouran, in the said county, upon the first court day after the same shall take place, and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of the sheriff according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county, at or as near the centre thereof, as the situation and convenience will admit, and thenceforth the said court shall proceed to erect the necessary public buildings at such place, and until such buildings be completed to appoint any place for holding courts in the said county, as they shall think proper. *Pro-*

vided always, That the appointment of a place for holding courts, and of a clerk, shall not be made unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such cases the appointment shall be postponed until some court day when a majority shall be present. *Provided also,* that it shall be lawful for the sheriff of the said county of Wythe, to collect and make districe for any public dues or officers fees which shall remain unpaid by the inhabitants thereof, at the time the said county of Grayson takes place, and shall be accountable for the same in like manner as if this act had not been made.

Public dues and fees in new county, how to be collected.

SECT. V. THE court of the said county of Wythe shall have jurisdiction of all actions and suits, which are depending before them at the time the said county of Grayson shall take place, and shall try and determine the same, and award execution thereon.

SECT. VI. THE said county of Grayson shall be included in the district with the said county of Wythe, for which a court is to be holden at Washington courthouse. In all future elections of a senate, the said county of Grayson shall be of the same district as the county of Wythe.

To what districts to be annexed.

C H A P. LII.

An ACT to revive and amend in part an act for increasing the reward for killing Wolves in certain counties.

[PASSED, November 29, 1792.]

SECTION I. **B**E it enacted by the General Assembly, That the act to revive in part an act, intituled, *An act to increase the reward for killing Wolves in certain counties*, which will expire at the end of the present session, shall be, and the same is hereby revived, so far as the same respects the counties of Hampshire, Albemarle, Amherst, Fluvanna, Orange, Culpeper, Berkeley, Loudoun, Prince William, Buckingham, Pendleton, Frederick, Shenandoah, Fauquier, Hardy, Charlotte, Greenbrier and Pittsylvania. Any law to the contrary thereof, notwithstanding;

Act increasing reward for killing wolves revived as to certain counties.

SECT. II. THIS act shall commence in force from the twentieth day of December next.

Commencement of this act.

C H A P. LIII.

An ACT establishing the County Line of the Counties of Amelia and Nottoway, the Dividing Line of the Parishes of Raleigh and Nottoway.

[PASSED, November 15, 1792.]

SECTION I. **W**HEREAS it has been represented to the present General Assembly, That the dividing line of the counties of Amelia and Nottoway, crosses in an oblique direction, that of the parishes of Raleigh and Nottoway, so as to render it very inconvenient to the inhabitants of either county residing between the lines to attend their respective parochial concerns:

Preamble.

SECT. II. *BE it therefore enacted by the General Assembly,* That the county line of the counties aforesaid, shall in future be considered, and is hereby established, as the line of separation of the said parishes.

The county line established the parish line.

C H A P. LIV.

An ACT for re-assessing the lands in the county of Kanawha.

[PASSED, November 10, 1792.]

SECTION I. **W**HEREAS the county of Kanawha, being composed of parts of the counties of Greenbrier and Montgomery, the commissioners of which counties proceeding on different principles in their valuation of lands in their respective counties, whereby great inequalities have arisen in the value of lands in the said counties, by reason whereof many landholders within the said county complain that their lands are taxed much higher than other lands in the same county of equal quality, and application hath been made to this Assembly, to give a legal sanction to measures for conducting a full and fair enquiry respecting the facts by them stated, in such manner that full information being had therein, such measures may be taken as will do justice to the landholders within the county, without any diminution or derangement of the public revenue. **AND WHEREAS** it is at all times the duty of the legislature to attend to the complaints of the people, and redress their grievances, for the purpose of conducting a proper enquiry respecting the complaints of the aforesaid landholders:

Preamble.

SECT. II. *BE it therefore enacted by the General Assembly,* That three discreet persons shall be appointed by the governor, with advice of council, as commissioners, to make a new valuation of all the lands heretofore assessed and included in the county of Kanawha, in such manner that all the lands so included shall average the price of three shillings per acre.

Commissioners to be appointed to reassess the lands.

SECT. III. THE commissioners so appointed, or any two of whom, shall be sufficient to act, shall before they enter on the execution of the duties herein required, take an oath before the court of Kanawha county, which oath shall be entered of record, faithfully and impartially to value all the lands in the said county to the best of their skill and judgment, in such manner that the whole quantity of land contained therein, shall on an average amount to the price of three shillings per acre.

Oath to be taken by them.

SECT. IV. In case of the death, refusal to act, or other disability of all or any of the said commissioners, the governor, with advice of council, shall appoint others in the room of the persons dead, refusing to act, or disabled, who shall in like manner take an oath as herein before required.

Vacancies, how to be supplied.

SECT. V. THE commissioners so appointed, may enter on the execution of the duties herein required, as soon as they shall have taken the oath aforesaid, and shall continue therein from time to time, so as to complete the whole by the first day of May, in the year one thousand seven hundred and ninety-five.

Revaluation, when to be commenced and finished.

SECT. VI. THE said commissioners shall make fair and distinct entries of all the lands by them valued, in a book to be kept by them for that purpose; of which book they shall make two copies, one of which shall be delivered to the governor, to be laid before the Assembly at their meeting in the session in the year seventeen hundred and ninety-five, and the other copy to be delivered to the clerk of Kanawha county, for the inspection of the court. The commissioners for their services in viewing and valuing the said lands, and for entering the same in their book, and making two copies as aforesaid, shall be allowed by the court of Kanawha, at the rate of six shillings per day, each, to be levied on the landholders of the said county, in proportion to the present assessment of the lands therein.

Commissioners books, how to be disposed of.

Compensation for their services.

C H A P. LV.

An ACT to alter the Court-days of the Counties of Shenandoah, Hampshire and Accomack, and changing the Quarter-Sessions in the Counties of Shenandoah, Berkeley, and Hampshire.

[PASSED, December 8, 1792.]

Change of the court days, of Hampshire, Shenandoah, and Accomack.

And of the quarterly sessions of Hampshire, Shenandoah, and Berkeley.

Commencement of this act.

SECTION I. **B**E it enacted by the General Assembly, That from and after the first day of March next, a court for the county of Hampshire shall be held by the justices thereof on the Wednesday next after the second Tuesday in every month, instead of the last Tuesday. A court for the county of Shenandoah shall be held on the second Tuesday, instead of the last Thursday in every month: And a court for the county of Accomack shall be held by the justices thereof on the last Monday in every month, instead of the last Tuesday.

SECT. II. **AND** be it further enacted, That the court of quarter-sessions directed by law to be held in the month of September in the said county of Hampshire, shall hereafter be held in the month of August. The court of quarter-sessions shall be held in the said county of Shenandoah in the month of February, instead of March, in every year. And the court of quarter-sessions for the county of Berkeley, shall be hereafter held on every third Tuesday in May, instead of June. Any law to the contrary thereof, notwithstanding.

SECT. III. **THIS** act shall commence and be in force from and after the first day of February next.

C H A P. LVI.

An ACT for establishing several New Ferries.

[PASSED, November 17, 1792.]

Public ferries established across Tyger Valley, Staunton, Ohio, Fluvanna, Monongahela, and Patowmack rivers.

Rates.

Penalty on ferry-keeper for demanding or receiving more than the legal rates.
Commencement of this act.

SECTION I. **B**E it enacted by the General Assembly, That public ferries shall be constantly kept at the following places, and the rates for passing the same as followeth, that is to say: From the land of Adam Minear, in the county of Harrison, across Tyger Valley river to the opposite shore, the price for a man four cents, and for a horse the same; from the land of William Morton, in the county of Charlotte, across Staunton river to the land of Joel Watkins, in the county of Halifax, the price for a man four cents, and for a horse the same; from the land of Jonathan Zane, across Ohio river to the opposite shore, the price for a man five cents, and for a horse the same; from the land of John Horfeley, in the county of Buckingham, across Fluvanna River, to the land of the said Horfeley, on the opposite shore, in the county of Amherst, the price for a man four cents, and for a horse the same; from the land of Samuel Anglin, across Monongahela river, to the land of William Anglin, on the opposite shore, the price for a man four cents, and for a horse the same; and from the land of Edward M'Shan, in the county of Berkeley, across Patowmack river, to the iron-works in the state of Maryland, the price for a man five cents, and for a horse the same.

SECT. II. **AND** for the transportation of wheel carriages, tobacco, cattle and other beasts, at the places aforesaid, the ferry-keepers may demand and take the following rates, that is to say: for every coach, chariot or waggon, and the driver thereof, the same as for six horses; for every cart or four-wheel chaise, and the driver, the same as for four horses; for every two-wheel chaise or chair, as for two horses; for every hoghead of tobacco as for one horse; for every head of neat cattle as for one horse; for every sheep, goat or lamb, one fifth part of the ferriage for one horse; and for every hog, one fifth part of the ferriage for one horse, and no more.

SECT. III. **IF** any ferry-keeper shall demand or receive any greater rates than are hereby allowed, for the ferriage or carriage of any thing, he shall for every such offence, forfeit and pay to the party aggrieved the ferriages demanded or received, and two dollars, to be recovered with costs before a justice of the peace of the county where the offence shall be committed.

SECT. IV. **THIS** act shall commence and be in force from and after the passing thereof.

C H A P. LVII.

An ACT to authorize John Sinclair to build a Toll-Bridge, in the County of Isle of Wight.

[PASSED, November 1, 1792.]

Toll-bridge to be built over Pagan creek.

Rates.

Penalty on the keeper for demanding or receiving more than the legal rates.

Proprietor's privilege, how it may be forfeited

Bridge to be so constructed as not to affect the navigation.

The present bridge to be valued.

SECTION I. **B**E it enacted by the General Assembly, That it shall and may be lawful for John Sinclair, his heirs and assigns, to erect or build a bridge over Pagan creek at the town of Smithfield, in the county of Isle of Wight, from any part of the lands on each shore within the distance of sixty feet from the present bridge.

SECT. II. **It** shall be lawful for the said John Sinclair, his heirs and assigns, to demand and receive the following tolls or rates for the passage of any person or thing over the said bridge, that is to say: The price for a man five cents, and for a horse the same; for every coach, chariot, or waggon, and the driver thereof, the same as for six horses; for every cart or four-wheel chaise or chair, and the driver thereof, the same as for four horses; for every two-wheel chaise or chair, the same as for two horses; for every hoghead of tobacco as for one horse; for every head of neat cattle as for one horse; for every sheep, goat or lamb, one fifth part of the toll or rate for one horse; and for every hog, one fourth part of the toll or rate for one horse, and no more.

SECT. III. **IF** the said John Sinclair, his heirs or assigns, or his, or their agent or servant, shall presume to demand or receive from any person or persons, greater rates or tolls than is hereby allowed, for the passage of any thing, he shall forfeit and pay for every such offence to the party grieved, the tolls or rates demanded or received, and one dollar and sixty-six cents; to be recovered with costs before a justice of the peace of the said county of Isle of Wight.

SECT. IV. **IF** the said bridge shall remain unfit for the passage of any person or thing by the space of three months, the privilege hereby granted to the said John Sinclair, his heirs and assigns, shall thenceforth cease and determine.

SECT. V. **PROVIDED** always, and be it further enacted, That the said bridge shall be so constructed that the navigation of the said creek may not thereby be injured or affected, under the penalty of three hundred and fifty dollars; to be recovered by bill, plaint, or information, in any court of record within this Commonwealth, one half to the use of the informer, and the other half to the use of the Commonwealth.

SECT. VI. **AND** be it further enacted, That Thomas Smith, Thomas King, Mills Wills, and Charles Fulgham, gentlemen, or any three of them, are hereby required, on or before the first day of January next, to value the bridge built at the expence of the said county, over Pagan creek, at the said town of Smithfield, and now standing, and certify the same to the

court of Isle of Wight county, and in case the said John Sinclair shall within two months after such valuation, enter into bond with sufficient security, for the same, to the justices of the said court, and their successors, for the use of the county, and payable at such time as shall be fixed by the court, that then the said bridge shall be and it is hereby vested in the said John Sinclair, his heirs and assigns.

and vested in John Sinclair, upon payment of the value.

SECT. VII. THIS act shall commence and be in force on the first day of November next.

Commencement of this act.

C H A P. LVIII.

An ACT to discontinue Crawford's Ferry at Mulberry Island Point, in the County of Warwick.

[PASSED, October 27, 1792.]

SECTION I. **B**E it enacted by the General Assembly, That the ferry heretofore established from the land of Carter Crawford, at Mulberry island point, in the county of Warwick, across James river to Hardy's land in the county of Isle of Wight, shall be, and the same is hereby discontinued.

Crawford's ferry discontinued.

SECT. II. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this act.

C H A P. LIX.

An ACT to amend the Act, intituled, "An Act for Improving the Navigation of Appamattox River, from Broadway to Pocahuntas Bridge."

[PASSED, November 30, 1792.]

BE it enacted by the General Assembly, That it shall and may be lawful for the Appamattox company to demand and receive tolls, when they shall make the river capable of being navigated in any season from Broadway to Pocahuntas bridge by vessels drawing nine feet water; any thing in the seventh section of the act, intituled, *An act for improving the navigation of Appamattox river from Broadway to Pocahuntas bridge*, to the contrary, notwithstanding.

When the Appamattox Company may demand tolls.

C H A P. LX.

An ACT to explain and amend an Act for opening and extending the Navigation of Appamattox River.

[PASSED, December 26, 1792.]

SECTION I. **W**HEREAS the act of assembly passed in December, seventeen hundred and eighty-seven, for opening and extending the navigation of Appamattox river, hath among other matters therein contained, enacted, That it shall and may be lawful for the trustees therein appointed, or a majority of them, to agree with the owners of any land, through which the said canal is intended to pass, for the purchase thereof, and in case of disagreement, or in case the owner thereof shall be a feme covert, under age, non compos, or out of the state, the like proceedings shall be had to estimate the value thereof by a jury, as are directed and prescribed by the act, intituled, *An act for opening and extending the navigation of Patowmack river*, and such valuation shall be paid by the said trustees to the owner of the said land, or his legal representative, and on payment thereof, the said land shall thenceforth be vested in the said trustees, and their successors, in fee, for the purposes of this act. And whereas doubts have arisen whether the trustees appointed to carry the said act into execution, have a right to lease or sell any part of the land which may be bought or condemned in manner aforesaid, and any portion of the water passing through the canals, which may be cut through the same for the purpose of erecting water mills or other useful works: For a plain declaration of the law therein,

Preamble

SEC. II. **B**E it enacted by the General Assembly, That the trustees legally appointed for opening and extending the navigation of Appamattox river, and their successors, shall have full power and authority to lease or sell any part of the lands which may be purchased or condemned in manner directed by the said recited act, and the use of so much of the water passing through the same as may be necessary for such mills or other useful works, as may be proposed to be erected thereon, and which in their opinion may be disposed of without prejudice to the navigation of the said river, and to make such deeds or conveyances for the same, as may be necessary for conveying to the person or persons so leasing or purchasing, and to their heirs or assigns, all the right and interest which the said trustees may lease or sell, agreeably to the authority in them vested, and the proceeds of the said sales or leases shall be applied by the said trustees in the same manner as the tolls are directed to be applied by an act, intituled, *An act for opening and extending the navigation of Appamattox river*.

Trustees may dispose of the land vested in them and the use of the water passing through the same,

SEC. III. **P**ROVIDED always, That before the said trustees shall have power to lease or sell any of the said lands, they shall call a meeting of the subscribers for opening and extending the said navigation, giving at least four weeks notice of the time and place of such meeting, in some one of the Richmond news-papers. And the said trustees in making leases or sales of any lands, or in disposing of the use of any water passing through the canals of the said river Appamattox, shall conform to such rules and regulations therein, as a majority of the subscribers then assembled, shall direct.

under the direction of the subscribers.

SEC. IV. **A**ND whereas the said trustees are required by the aforesaid recited act, to begin the work as near to Banister's mill, as circumstances will admit, and doubts have arisen whether they have a right to open the navigation below the said mill: *Be it therefore enacted*, That it shall and may be lawful for the said trustees, and their successors, to open the navigation as near to the said mill, either above or below the same, at such places, and in such manner, as in their opinions will be most for the benefit of the said navigation.

Navigation may be opened below Banister's mill.

SEC. V. **A**ND be it further enacted, That Francis Eppes, John Royall, Neil Buchanan, Roger Atkinson, jun. and Edmund Harrison, gentlemen, be appointed trustees, in addition to the number formerly appointed, for the purpose of carrying into full effect the act aforesaid, any four of whom shall be sufficient.

Other trustees added, the former.

SEC. VI. **P**ROVIDED always, That nothing in this act contained, shall be construed to allow the said trustees to make sale of any mill seat, except between Atkinson's and Banister's mills.

No mill seats to be sold, except between Atkinson's and Banister's mills.

C H A P. LXI.

An ACT concerning certain Tobacco Inspections within the Town of Petersburg.

[PASSED, December 8, 1792.]

SECTION I. **W**HEREAS it is represented to the present General Assembly, that the proprietors of the warehouses in the town of Petersburg, called Boyd's and Bollingbrook, are willing to rebuild the same of brick or stone, to be covered with slate or tile, and make the gates of iron, in case a reasonable time is allowed them to complete the same:

Preamble

B

Boyd's & Bollingbrook
warehouses to be rebuilt
of brick or stone, and
covered with slate or
tile.
When.

Commencement of this
act.

SECT. II. *BE it therefore enacted*, That the proprietor of Boyd's warehouse, shall, on or before the first day of May next, give bond to the court of Prince George county, and the proprietor of Bollingbrook warehouse, give bond to the court of Dinwiddie county, each in the penalty of one thousand pounds for the faithful and full performance of the conditions herein mentioned; they and each of them are and shall be compelled to erect the same of brick or stone, to be covered with slate or tile, and make the gates of iron. *PROVIDED*, that the said proprietors shall be, and they are hereby required, under the aforesaid penalty, to begin to rebuild the said warehouses and construct one fourth part of each, in manner aforesaid, on or before the first day of October, one thousand seven hundred and ninety-four, and one other fourth on the first day of October in each succeeding year, until the whole shall be completed.

SECT. III. THIS act shall commence in force from and after the passing thereof.

C. H. A. P. LXII.

An ACT to establish an Inspection of Tobacco on the Lands of John Scott, in the County of Albemarle.

[PASSED, November 10, 1792.]

Inspection established on
Scott's land, in Albe-
marle.

Inspectors salaries.

Manifests to be deliver-
ed with each load of to-
bacco.
Where the tobacco is to
be delivered.

What warehouse rent
is to be paid therefor.

The duty, how to be
collected.

Deficiency of inspec-
tors salaries not to be
paid by the public.
When the inspection
shall commence.

Commencement of this
act.

SECTION I. *BE it enacted by the General Assembly*, That an inspection of tobacco shall be, and the same is hereby estab-
lished on the land of John Scott, at his ferry in the county of Albemarle, to be called and known by the name of Scott's warehouse, the proprietor whereof shall build the same at his own expense, of brick or stone, to be covered with slate or tile, and make the gates of iron.

SEC. II. THERE shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of one hundred and thirty-four dollars, for their salary.

SEC. III. THE inspectors at the said warehouse, upon the delivery of their notes, or an order where they have not issued notes, shall deliver the tobacco for transportation with a manifest for the same, expressing the owner's name, the name of the skipper of the batteau or canoe, with the marks, number and weight of the tobacco, and stamped with the warehouse name; which tobacco, with the manifest, shall be delivered to the inspectors at Byrd's, Shockoe, Rockett's, Manchester, Rocky-Ridge, Trent's, or Johnson's, who are hereby required to receive the same, and enter the said tobacco agreeable to the said manifest, in books to be by them provided and kept for that purpose, and grant their receipts for the same, to the owners thereof, to be delivered for exportation when required. The inspectors at the said warehouses are hereby empowered to examine and weigh any tobacco to them delivered, when required by the owner thereof, and if found to be damaged or embezzled, the same shall not be entered in the books, but remain in the warehouse subject to the direction of the owner, in like manner as other damaged tobacco. The inspectors at each of the said warehouses of Byrd's, Shockoe's, Rockett's, Manchester, Rocky-Ridge, Trent's, and Johnson's, shall demand and receive for all tobacco brought to the said warehouse by virtue of this act, the same warehouse rent as is allowed for tobacco re-landed from on board any vessel, and be appropriated in the manner directed by law for the appropriation of the tax or rent on such re-landed tobacco.

SEC. IV. THE duty on tobacco inspected at the said warehouse shall be the same, and collected, accounted for, and paid in like manner as is directed and prescribed by law for other tobacco inspections, except where it shall be otherwise particularly directed by this act.

SEC. V. IF the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public.

SEC. VI. NO tobacco shall be received, nor shall any inspectors be appointed at the said warehouse, until the court of the county of Albemarle, shall be of opinion, and enter the same of record, that the warehouse is built according to the directions of this act.

SEC. VII. THIS act shall commence and be in force from and after the passing thereof.

C. H. A. P. LXIII.

An ACT to establish an Inspection of Tobacco on the Lands of William Cabell in the County of Amherst.

[PASSED November 8, 1792.]

Preamble.

Inspection established
near the confluence of
Tye and James rivers.
Inspectors salaries.

Manifests to be deli-
vered with each load
of tobacco.
Where the tobacco is to
be delivered.

But may be shipped
without being delivered
at any other ware-
house.
Warehouse rent to be
paid therefor.

The duty, how to be
collected.

SECTION I. *WHEREAS* it is represented to the present General Assembly, that it would be of great utility and public convenience to establish an inspection of tobacco at the confluence of Tye and James rivers, on the lands of William Cabell, in the county of Amherst, the proprietor whereof is willing to erect the necessary buildings at his own expense.

SEC. II. *BE it therefore enacted*, That an inspection of tobacco shall be, and the same is hereby established at or near the confluence of Tye and James rivers, on the lands of William Cabell in the said county of Amherst, to be called and known by the name of Tye River warehouse.

SEC. III. THERE shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of one hundred and thirty-three dollars and thirty-three cents, for their salary.

SEC. IV. THE inspectors at the said warehouse upon the delivery of their notes, or an order where they have not issued notes, shall deliver the tobacco for transportation, with a manifest for the same, expressing the owner's name, the name of the skipper of the batteau or canoe, with the marks, numbers and weights of the tobacco, and stamped with the name of the warehouse; which tobacco, with the manifest, shall be delivered to the inspectors, either at Byrd's, Shockoe, Rockett's, Manchester, Rocky-Ridge, Trent's, and Johnson's, who are hereby required to receive the same, and enter it agreeable to the manifest, in a book to be provided and kept for that purpose, and grant their receipts to the owners thereof for the same, to be delivered for exportation when required. The inspectors at the last-mentioned warehouses are hereby empowered to examine and weigh any tobacco delivered to them, when required by the owner thereof, and if found to be damaged or embezzled, the same shall not be entered in the books, but remain in the warehouse subject to the directions of the owners, in like manner as other damaged tobacco.

SEC. V. *PROVIDED* always, That nothing herein contained shall be construed to prevent the owner of any tobacco inspected at the said warehouse from shipping the same without its being delivered or re-inspected at any other warehouse.

SEC. VI. *AND be it further enacted*, That the inspectors at each of the said warehouses of Byrd's, Shockoe, Rockett's, Manchester, Rocky-Ridge, Trent's, and Johnson's, shall demand and receive for all tobacco brought to the said warehouses by virtue of this act, the same warehouse rent as is allowed for tobacco re-landed from on board any vessel, to be appropriated in the manner directed by law for the appropriation of the rent of such re-landed tobacco.

SEC. VII. THE impost and duty on tobacco inspected at the said warehouse, shall be the same, and collected, accounted for, and paid in like manner, and under the like penalties, as is directed and prescribed by law for other tobacco inspections.

SECT. VIII. *AND be it further enacted*, That when it shall appear to the court of Amherst county, that a sufficient number of houses are built at the said inspection for the reception of tobacco, they shall then proceed to recommend fit persons to serve as inspectors at the said warehouse.

When the inspection shall commence.

SECT. IX. *PROVIDED always, and be it further enacted*, That if the quantity of tobacco inspected at the warehouse, shall not be sufficient to pay the usual charges, and the inspectors salaries, the deficiency shall not be paid by the public.

Deficiency of inspector's salaries not to be paid by the public.

C H A P. LXIV.

An ACT to establish an Inspection of Tobacco in the town of Saint Taminy.

[PASSED, October 27, 1792.]

SECTION I. *WHEREAS* it has been represented to this present General Assembly that it would be of great utility to establish a warehouse for the reception and inspection of tobacco in the town of St. Taminy and county of Mecklenburg:

Preamble.

SECT. II. *BE it therefore enacted*, That an inspection of tobacco shall be, and the same is hereby established on lot numbered "nine" in the plat of the said town, the property of James Blanton, who shall build convenient houses at his own expence, to be called and known by the name of Saint Taminy's warehouse.

Inspection established on Blanton's land in St. Taminy.

SECT. III. THERE shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of one hundred and fifty dollars, for their salary.

Inspector's salaries.

SECT. IV. THE inspectors at the said warehouse, upon the delivery of their notes, or an order where they have not issued notes, shall deliver the tobacco for transportation, with a manifest of the same, expressing the owner's name, the name of the skipper of the batteau or canoe, or owner or driver of the waggon, when delivered to the latter, with the marks, number, and weight of the tobacco, and stamped with the warehouse name, which tobacco, when delivered to a waggon, shall be by the driver thereof delivered with the manifest to the inspectors at any of the warehouses which now are or shall be hereafter established in the towns of Petersburg, Manchester or Osborne's, who are hereby required to receive the same, and enter the said tobacco agreeable to the said manifest, in books, to be by them provided and kept for that purpose, and grant their receipts for the same to the owners thereof, and be delivered for exportation when required. The inspectors at the last mentioned warehouses are hereby empowered to examine and weigh any tobacco to them delivered, when required by the owner thereof, and if found to be damaged or embezzled, the same shall not be entered in the books, but remain in the warehouse, subject to the direction of the owner, in like manner as other damaged tobacco.

Manifests to be delivered with each load of tobacco.

When the tobacco is to be delivered.

SECT. V. *AND be it further enacted*, That the inspectors at each of the said warehouses in the towns of Petersburg, Manchester, or Osborne's, shall demand and receive for all tobacco brought to the said warehouses by virtue of this act, the same warehouse rent, as is allowed for tobacco re-landed from board any vessel, and be appropriated in the manner directed by law, for the appropriation of the tax or rent on such re-landed tobacco.

Warehouse rent to be paid therefor.

SECT. VI. THE impost and duty on tobacco inspected at the said warehouse, shall be the same, and collected, accounted for and paid in like manner as is directed and prescribed by law for other tobacco inspections, except where it shall be otherwise particularly directed by this act.

The duty, how to be collected.

SECT. VII. SO soon as convenient houses for the reception of tobacco shall be built by the said James Blanton, the court of the said county of Mecklenburg, shall recommend fit persons to be commissioned inspectors thereof.

Inspection when to commence.

SECT. VIII. NO person shall be obliged to receive any notes for tobacco passed at the said warehouse in discharge of any tobacco contract heretofore entered into.

The tobacco not a tender in discharge of certain contracts.

SECT. IX. *PROVIDED always*, That if the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public.

Deficiency of inspectors salaries not to be paid by the public. Commencement of this act.

SECT. X. THIS act shall commence and be in force from the passing thereof.

C H A P. LXV.

An ACT to establish a Town and Inspection of Tobacco on the Lands of John Hoomes, in the County of Caroline.

[PASSED, November 2, 1792.]

SECTION I. *BE it enacted by the General Assembly*, That fifteen acres of land, the property of John Hoomes, lying on the north side of Mattapony river, adjoining the bridge, called Dogue Town, in the county of Caroline, shall be, and they are hereby vested in Edmund Pendleton, John Taylor, John Baylor, John Hoomes, Edmund Pendleton, junior, Mungo Roy, and Anthony New, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Milford.

Town established on Hoomes's land in Caroline. Trustees.

SECT. II. SO soon as the said land shall be laid off into lots, the said trustees, or a majority of them, shall proceed to sell the same at public auction for the best price that can be had, the time and place of such sale, being first advertised two months in the Virginia Gazette; and to convey the said lots to the purchasers in fee, subject to the condition of building on each a dwelling-house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale, and pay the money arising from such sales to the said John Hoomes, or his legal representatives.

Lots, when and how to be sold.

SECT. III. THE trustees of the said town, or a majority of them, are hereby empowered to make such rules and orders for the regular building of houses therein, as to them shall seem meet, and to settle and determine all disputes about the bounds of the said lots.

Powers of the trustees.

SECT. IV. SO soon as the purchasers of lots in the said town shall have built thereon according to the conditions of their respective deeds of conveyance, they shall then be entitled to, and have and enjoy all the rights, privileges and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

Privileges of the purchasers of lots.

SECT. V. IN case of the death, resignation, or removal out of the county, of any one or more of the said trustees, the vacancy thereby occasioned shall be supplied by the remaining trustees, or a majority of them, and the trustees so chosen, shall have the same power and authority, as if they had been appointed and named in this act.

Vacancies in the trustees, how to be supplied.

SECT. VI. *AND* whereas it is represented that it will be of public utility to establish an inspection of tobacco on the lands of the said John Hoomes, adjoining the said town, who is willing to build the necessary houses at his own expence: *Be it therefore enacted*, that an inspection of tobacco shall be, and the same is hereby established on the lands of the said John Hoomes, adjoining the said town of Milford, in the county of Caroline, to be called and known by the name of York warehouse.

Inspection of tobacco established on Hoomes's land adjoining the town.

*Inspectors salaries,
Provided.*

SECT. VII. THERE shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of one hundred and fifty dollars for their salary: *Provided always*, that if the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public.

*Manifests to be delivered
with each load of
tobacco.
How the tobacco may
be disposed of.*

SECT. VIII. THE inspectors at the said warehouse upon the delivery of their notes, or an order, where they have not issued notes, shall deliver the said tobacco with a manifest of the same, expressing the owner's name, the name of the skipper of the boat, batteau or canoe, with the marks, number and weight of the tobacco, and stamped with the warehouse name; which tobacco with the manifest, may, at the option of the owner, either be delivered from such boat, batteau, or canoe, for exportation, or delivered to the inspectors at Todd's or Aylett's warehouse, who are hereby required to receive the same, and enter it agreeable to the manifest, in books to be by them provided and kept for that purpose, and grant their receipts for the same to the owners thereof, and be delivered for exportation when required. The inspectors at Todd's and Aylett's warehouse are hereby empowered to examine and weigh any tobacco to them delivered, when required by the owner thereof, and if found to be damaged or imbezzled, the same shall not be entered in the books, but remain in the warehouse, subject to the direction of the owner, in like manner as other damaged tobacco. The inspectors at Todd's and Aylett's warehouse, shall demand and receive for all tobacco brought to the said warehouses, by virtue of this act, the same warehouse rent as is allowed for tobacco re-landed from on board any vessel, and be appropriated in the manner directed by law for the appropriation of the tax or rent on such re-landed tobacco.

*Warehouse rent to be
paid therefor.*

*The duty, how to be
collected.*

SECT. IX. THE impost and duty on tobacco inspected at the said warehouse, shall be the same, and collected, accounted for, and paid in like manner, as is prescribed by law for other inspections, except where it shall be otherwise particularly directed by this act.

*Certain tobacco con-
tracts not to be affected
by this act.*

SECT. X. *PROVIDED always*, That nothing herein contained shall be construed, so as to affect any contract or contracts made payable in tobacco previous to the passing of this act.

C H A P. LXVI.

An ACT to establish an Inspection of Tobacco in the Town of Lynchburg, and County of Campbell.

[PASSED, October 23, 1792.]

Preamble.

SECTION I. **W**HEREAS it hath been represented to this present General Assembly, that it would be of public utility to establish another inspection of tobacco in the town of Lynchburg, and county of Campbell:

*Inspection established on
Lynch's land in Lynch-
burg.*

SECT. II. *BE it therefore enacted*, That an inspection of tobacco shall be, and the same is hereby established on the land of John Lynch, towards the East end of the said town of Lynchburg, near Union or Rock-spring, and between Lynch street and the river, the proprietor of the said land to build convenient houses at his own expense, to be called and known by the name of Spring warehouse.

Inspectors salaries.

SECT. III. THERE shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of one hundred and thirty-three dollars and thirty-three cents, for their salary.

*Manifests to be deliver-
ed with each load of
tobacco.*

SECT. IV. THE inspectors at the said warehouse, upon the delivery of their notes, or an order, where they have not issued notes, shall deliver the tobacco for transportation, with a manifest for the same, expressing the owner's name, the name of the skipper of the batteau or canoe, with the marks, number, and weight of the tobacco, and stamped with the warehouse name, which tobacco, with the manifest, shall be delivered to the inspectors at Byrd's, Shockoe's, Rockett's, Manchester, Rocky-Ridge, Trent's, or Johnson's, who are hereby required to receive the same, and enter the said tobacco agreeable to the said manifest, in books to be by them provided and kept for that purpose, and grant their receipts for the same to the owners thereof, and be delivered for exportation when required. The inspectors at the said warehouses are hereby empowered to examine and weigh any tobacco to them delivered, when required by the owner thereof, and if found to be damaged or embezzled, the same shall not be entered in the books, but remain in the warehouse subject to the direction of the owner, in like manner as other damaged tobacco.

*The tobacco, where to
be delivered.*

*What warehouse rent
to be paid therefor.*

SECT. V. THE inspectors at each of the said warehouses of Byrd's, Shockoe's, Rockett's, Manchester, Rocky-Ridge, Trent's, and Johnson's, shall demand and receive for all tobacco brought to the said warehouses by virtue of this act, the same warehouse rent as is allowed for tobacco re-landed from on board any vessel, and be appropriated in the manner directed by law for the appropriation of the tax or rent on such re-landed tobacco.

*Duty, how to be col-
lected.*

SECT. VI. THE duty on tobacco inspected at the said warehouse shall be the same, and collected, accounted for, and paid in like manner, as is directed and prescribed by law for other tobacco inspections, except where it shall be otherwise particularly directed by this act.

*Deficiency of inspectors
salaries not to be paid
by the public.*

SECT. VII. *PROVIDED always, and be it further enacted*, That if the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges, and the inspectors salaries, the deficiency shall not be paid by the public.

C H A P. LXVII.

An ACT to establish a Town in the County of Loudoun.

[PASSED, November 12, 1792.]

*Town established on the
lands of Alexander and
others, in the county of
Loudoun.
Trustees.*

SECTION I. **B**E it enacted by the General Assembly, That seventy acres of land, lying near Newgate, in the county of Loudoun, the property of John Stewart Alexander, Presley Carr Lane, George Ralls, Mary Lane, and Francis Adams, shall be, and they are hereby vested in Leven Powell, Joseph Lane, David Stewart, Thomas Blackburn, William Alexander, Hugh Stewart, Samuel Love, John Orr, Charles Eskridge, William Lane, junior, William Lane, (the third) John Stewart Alexander, Francis Adams, Presley Carr Lane, and George Ralls, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Centerville.

*Main street, how to be
laid off.*

SECT. II. *PROVIDED always, and be it further enacted*, That the trustees shall cause the main street of the said town to be laid off in such a direction as to bind on the lands of Francis Adams, and Mary Lane, on one side, and Presley Carr Lane, George Ralls, and John Stewart Alexander, on the other.

*Lots, when and how
to be sold.*

SECT. III. SO soon as the said land shall be laid off into lots, the trustees, or a majority of them, shall proceed to sell the same at public auction, for the best price that can be had, the time and place of such sale being previously advertised two months successively in the Virginia Gazette; the purchasers to hold the said lots respectively, subject to the condition of building on each a dwelling-house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale, and to convey the said lots to the purchasers in fee simple, subject to the condition aforesaid, and shall pay the money arising from the sale of the said lots, to the said John Stewart Alexander, Presley Carr Lane, George Ralls, Mary Lane, and Francis Adams, or their legal representatives, in such proportions as the lots severally owned by them in the said town, shall amount to.

Conditions of the sales.

Powers of the trustees.

SECT. IV. THE trustees of the said town, or a majority of them, are empowered to make such rules and orders for the regular building of houses therein as to them shall appear proper; and to settle and determine all disputes concerning the bounds of the said lots. *Powers of the trustees.*

SECT. V. IN case of the death, resignation, or removal out of the county of one or more of the said trustees, the vacancy thereby occasioned shall be supplied by the remaining trustees, or a majority of them, and the person so elected shall have the same power and authority as if he had been particularly named in this act. *Vacancies how to be supplied.*

SECT. VI. IF the purchaser of any lot in the said town shall fail to build thereon according to the conditions of their respective deeds of conveyance, the trustees of the said town, or a majority of them, may thereupon enter into such lot and sell the same again, and apply the money for the benefit of the inhabitants of the said town. *May sell lots forfeited by breach of the condition of the sales.*

SECT. VII. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this act.

C H A P. LXVIII.

An ACT concerning the Town of Springfield, in the County of Hampshire.

[PASSED, October 27, 1792.]

SECTION I. WHEREAS by an act of the General Assembly, passed in the year one thousand seven hundred and ninety, intituled, *An act to establish several towns*, it was among other things enacted, that one hundred acres of land, lying at the cross-roads in the county of Hampshire, the property of William and Samuel Abernethy, should be vested in certain trustees, to be laid off into lots of half an acre each, with convenient streets, and established a town by the name of Springfield: AND WHEREAS it hath been represented to this present Assembly, that the said William and Samuel Abernethy had, previous to the passing of the said recited act, laid off the said one hundred acres of land into lots of one quarter of an acre each, and sold many of them, for which bonds were executed by the purchasers, but no conveyance made by the said William and Samuel Abernethy:

Preamble.

SECT. II. BE it therefore enacted, That the lots in the said town of Springfield, shall contain only one quarter of an acre each, as originally laid out by the proprietors thereof, and that the name of "Andrew Humes" shall stand in the stead and place of "Andrew Hughes," (as was meant and intended, but the name mistaken) as one of the trustees of the said town.

Each lot to contain one quarter of an acre. A mistake in naming one of the trustees rectified.

SECT. III. AND be it further enacted, That the trustees of the said town, or a majority of them, shall, and they are hereby empowered, to convey to the purchasers all the lots sold by the said William and Samuel Abernethy previous to the passing of the said recited act, according to the terms of such sale.

Trustees to convey lots sold before the town was established.

SECT. IV. SO much of the said recited act, as comes within the meaning of this act, is hereby repealed.

Repealing clause.

SECT. V. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this act.

C H A P. LXIX.

An ACT to establish a Town at the Court-house, in the County of Patrick.

[PASSED, November 17, 1792.]

SECTION I. BE it enacted by the General Assembly, That the lots and streets, as the same are already laid off at the court-house in the county of Patrick, shall be, and are hereby established a town by the name of Taylorsville; and Archelaus Hughes, Abraham Penn, James Lyon, Samuel Clark, Francis Turner, James Armstrong, William Banks, William Carter, Charles Foster, and George Penn, gentlemen, are constituted and appointed trustees thereof.

Town established at Patrick court-house. Trustees.

SECT. II. THE trustees of the said town, or a majority of them, are empowered to make such rules and orders for the regular building of houses therein as to them shall seem best, and to settle and determine all disputes about the bounds of the said lots.

Their powers.

SECT. III. IN case of the death, resignation, or removal out of the county of one or more of the trustees, the vacancy thereby occasioned shall be supplied by the remaining trustees, or a majority of them, and the person so elected shall have the same power and authority, as if he had been particularly named in this act.

Vacancies how to be supplied.

C H A P. LXX.

An ACT for establishing a Town in the County of Wythe.

[PASSED, October 29, 1792.]

SECTION I. BE it enacted by the General Assembly, That one hundred acres of land lying in the county of Wythe, and given to the said county by Stophel Zimmerman and John Davis, a part of which is already laid off into lots and streets, be, and the same is hereby vested in Alexander Smyth, Walter Crockett, William Ward, Robert Adams, James Newell, David McGavock, Jesse Evans, and William Caspe, gentlemen, trustees, so much thereof to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, as will make up the quantity of sixty acres, and established a town by the name of Evansham, and the residue of the said one hundred acres, shall be and remain as a common to, and for the use and benefit of the inhabitants of the said town.

Town established in Wythe, on land belonging to the county. Trustees.

SECT. II. THE said trustees, or a majority of them, shall on receipt of the purchase money, or bond and approved security for the payment thereof upon demand, convey to the different purchasers, or their assigns, the lots sold by the commissioners appointed by the court of the said county to lay off the said town. *Provided always, and be it further enacted,* That if any purchaser of a lot in the said town from the commissioners, shall fail for the space of six months from and after the passing of this act, to pay the purchase money, or give bond and approved security to the said trustees for the payment thereof, as aforesaid, every such purchaser shall forfeit his claim, and the trustees may enter on every such lot, and make sale thereof in like manner as if the same had never been sold.

To convey lots sold by the former commissioners. Proviso.

SECT. III. SO soon as the said trustees shall have laid off so much of the said one hundred acres of land into lots and streets as is herein before directed, they shall sell the said lots at public auction on some court day, having given three months previous notice thereof in the Virginia Gazette, taking bonds with good security for the payment of the purchase money, on such credit as they shall judge reasonable, and shall convey the said lots to the purchasers in fee-simple, and pay the money arising from the said sales to the order of the court of the said county of Wythe, deducting ten per centum for collecting and charges.

Lots when and how to be sold. Purchase money how to be disposed of.

SECT. IV. THE said trustees, or a majority of them, shall have power from time to time, to make such rules for the building of houses in the said town, as to them shall seem most convenient and conducive to the good of the inhabitants; to settle and determine all disputes about the limits or boundaries of the lots; to make rules and orders for the clearing, cleansing

Powers of the trustees.

and keeping in good order the streets thereof; and also to abate and remove all nuisances in the said town; and if any person shall build or begin to build any wooden chimney or chimnies therein, the trustees shall cause all such to be pulled down and demolished.

Vacancies, how to be supplied.

SECT. V. IN case of the death, removal out of the county, resignation, or legal disability of any of the said trustees, it shall be lawful for those remaining to choose some other good and lawful inhabitant of the said county, to supply such vacancy, and the person so chosen, shall have the same power as any trustee appointed by this act.

Privileges of the owners of lots.

SECT. VI. SO soon as the owners of lots in the said town shall have built thereon a dwelling-house, the dimensions of which shall be equal to twelve feet square at the least, they shall then be entitled to all the privileges and advantages that the inhabitants of other towns in this state, not incorporated, have and enjoy.

Swine not to be permitted to run at large in the town.

SECT. VII. NO person shall permit their swine to run at large in the said town, on pain that the same shall be liable to be killed by any inhabitant thereof.

C H A P. LXXI.

An ACT for establishing several Towns.

[PASSED, November 10, 1792.]

Town established at Montgomery courthouse, By the name of Christiansburg.

SECTION I. **B**E it enacted by the General Assembly, That one hundred and eighty acres of land, the property of the county of Montgomery, whereon the courthouse and other public buildings are erected, as the same are already laid off into lots and streets, shall be, and the same are hereby established a town by the name of Christiansburg, and Byrd Smith, James Barnett, Hugh Crockett, Samuel Eason, Joseph Cloyd, John Preston, Christian Snide, James Charlton, and James Craig, gentlemen, constituted and appointed trustees thereof.

On Brent's land on Aquia creek in Stafford.

SECT. II. THAT fifty acres of land lying on the north side of Aquia creek, in the county of Stafford, the property of George Brent, shall be, and they are hereby vested in Travers Daniel, jun. Bailly Washington, John Cooke, Daniel C. Brent, John R. Peyton, Valentine Peyton, John Murray, Robert Brent, Thomas Mountjoy, John Mountjoy, Elijah Threlkeld, and Nathaniel Fox, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Woodstock.

By the name of Woodstock.

On Grier's land in Franklin.

SECT. III. THAT forty acres of land in the county of Franklin, the property of Moses Grier, shall be, and they are hereby vested in John Early, Jacob Boon, John Northfinger, Daniel Barnhart, Samuel Thompson, William Wright, jun. William Turnbull, and Swinfield Hill, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Wisenburgh. And that thirty-two acres of land lying in the county of Franklin, the property of Daniel Layman and Stephen Peters, as the same are already laid off into lots and streets, be, and they are hereby established a town by the name of Germantown, and Swinfield Hill, George Turnbull, Jacob Harkrider, Daniel Peary, Jubal Early, John Fergarson, and Tobias Miller, gentlemen, constituted and appointed trustees thereof.

By the name of Wisenburgh.

And on Layman and Peters's land in Franklin.

By the name of Germantown.

Lots in Woodstock and Wisenburgh, when & how to be sold.

SECT. IV. SO soon as the said lands of George Brent and Moses Grier shall respectively be laid off into lots, the trustees of each, or a majority of them, shall proceed to sell the same at public auction, for the best price that can be had, the time and place of such sale being previously advertised, two months successively in the Virginia Gazette, and to convey the said lots to the purchasers thereof in fee, subject to the condition of building on each a dwelling-house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within five years from the day of sale, and pay the money arising from such sales to the proprietors of the said lands respectively, or their legal representatives.

Powers of the trustees.

SECT. V. THE trustees of the said towns respectively, or a majority of them, are empowered to make such rules and orders for the regular building of houses therein, as to them shall seem best, and to settle and determine all disputes concerning the bounds of the said lots.

Purchasers to build on their lots, or forfeit them.

SECT. VI. IF the purchaser of any lot in the said towns of Christiansburg, Woodstock, Wisenburgh, and Germantown, shall fail to build thereon within the time herein before limited for that purpose, the trustees of the said town where such failure happens, may thereupon enter into such lot and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

Vacancies in the trustees how to be supplied.

SECT. VII. IN case of the death, resignation, or removal out of the county of one or more of the trustees of the said towns respectively, the vacancy thereby occasioned, shall be supplied by the remaining trustees, or a majority of them, and the person so elected, shall have the same power and authority as if he had been particularly named in this act.

Commencement of this act.

SECT. VIII. THIS act shall commence and be in force from and after the passing thereof.

C H A P. LXXII.

An ACT to establish a Town in the County of Buckingham.

[PASSED, November 10, 1792.]

Town established on Horsley's land in Buckingham.

SECTION I. **B**E it enacted by the General Assembly, That ten acres of land, the property of John Horsley, in the county of Buckingham, shall be, and they are hereby vested in David Bell, John Moseley, Charles Patterson, William Dieuguid, William Perkins, junior, Philip Du-Val, James Dilliard, Charles Moseley, Josias Jones, Henry Flood, and David Kyle, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and together with the lots already laid off adjoining thereto by the said Horsley, established a town by the name of Dieuguidville.

By the name of Dieuguidville.

Lots when and how to be sold.

SECT. II. SO soon as the said ten acres of land shall be laid off into lots, the trustees, or a majority of them, shall proceed to sell the same at public auction, for the best price that can be had, the time and place of sale being previously advertised for two months successively in the Virginia Gazette, and to convey the said lots to the purchasers thereof in fee, and pay the money arising from the sale of the said lots to the said John Horsley, or his legal representatives.

Powers of the trustees.

SECT. III. THE trustees of the said town, or a majority of them, are hereby authorized to make such rules and orders for the regular building of houses therein, as to them shall seem proper, and to settle and determine all disputes concerning the bounds of the said lots.

Vacancies, how to be supplied.

SECT. IV. IN case of the death, resignation, or removal out of the county, of any of the said trustees, the vacancy thereby occasioned shall be supplied by the remaining trustees, or a majority of them, and the person so elected, shall have the same power and authority as if he had been particularly named in this act.

Commencement of this act.

SECT. V. THIS act shall commence and be in force from and after the passing thereof.

C H A P. LXXIII.

An ACT giving the Purchasers of Lots in several Towns a further Time to build thereon.

[PASSED, November 2, 1792.]

SECTION I. **W**HEREAS the purchasers of lots in the town of Clarksburg, in the county of Harrison, in the town of Milton, in the county of Albemarle, in the town of Abingdon, in the county of Washington, and Morgan's Town, in the county of Monongalia, from the difficulty of procuring materials, have not been able to build on their lots within the time prescribed by law :

Preamble.

SECT. II. *BE it therefore enacted*, That the further time of five years, from the passing of this act, shall be allowed the purchasers of lots in the said towns respectively, to build thereon and save the same.

Five years allowed the purchasers of lots to build thereon.

C H A P. LXXIV.

An ACT to establish an Academy, and incorporate the Trustees thereof, in the County of Augusta.

[PASSED, December 4, 1792.]

SECTION I. **W**HEREAS it is the interest of all wise and free governments, to facilitate as much as may be, the diffusion of useful knowledge among its inhabitants; and application hath been made to this Assembly to pass an act appointing trustees for an academy about to be built in Staunton, in the county of Augusta, and to incorporate them into a body politic :

Preamble.

SECT. II. *BE it therefore enacted*, That the Reverend John McCue, the Reverend William Wilson, the Reverend Archibald Scott, Gabriel Jones, Alexander St. Clair, Sampson Matthews, senior, Archibald Stuart, Robert Gamble, William Bowyer, Alexander Humphreys, David Stephenson, Robert Porterfield, James Powell Cocke, Alexander Nelson, John Steel, James Lyle, Robert Gratton, William Lewis, and John Tate, gentlemen, shall be, and they are hereby constituted a body politic and corporate, to be known by the name of The Trustees of the Staunton academy, and by that name shall have perpetual succession and a common seal. The said trustees and their successors, by the name aforesaid, shall be capable in law to purchase, receive, and hold to them and their successors forever, any lands, tenements, rents, goods or chattels, of what kind soever, which shall be given or devised to, or purchased by them for the use of the said academy, and to sell and dispose of the same in such manner as to them shall seem most conducive to the advantage of the said academy. The said trustees by the name aforesaid, may sue and be sued, implead and be impleaded in any court of law or equity. They shall have power from time to time to establish such bye-laws, rules and ordinances, not contrary to the constitution and laws of this commonwealth, as they shall deem necessary for the government of the said academy. Not less than ten of the said trustees shall constitute a board to determine upon any matter relative to the establishment, government, or support of the said academy; and no real estate belonging to the said academy, shall be disposed of, unless fourteen of the said trustees shall concur in opinion thereon. Upon the death, resignation, or other legal disability of any of the said trustees, the vacancy thereby occasioned shall be supplied by the remaining trustees, or a majority of them. The said trustees shall elect a treasurer, who shall receive all monies accruing to the said academy and property delivered to his care, and pay or deliver the same to the order of the said trustees; and before he enters on the execution of the duties of his office, shall give bond and security for such sum as the said trustees shall direct, payable to them and their successors, and conditioned for the faithful discharge of the trust reposed in him; and that he will when required by the said trustees, render to them a true account of all monies, goods and chattels received by him on account of, and for the use of the said academy. The treasurer shall receive such salary as may be allowed and fixed by the trustees. If the treasurer shall fail to render, when thereunto required, a just and true account of all monies, goods and chattels which have come to his hands by virtue of his office, and also of all expenditures for or to the said academy, he shall on such failure be subject to a judgment on motion in any court of record in this commonwealth; and execution may thereupon be awarded in like manner as against sheriffs for the non-payment of public taxes.

*Trustees appointed for the Staunton academy and incorporated.**Their powers and duties.**How many shall constitute a board.**Vacancies how to be supplied. Treasurer to be appointed.*

C H A P. LXXV.

An ACT to establish an Academy, and incorporate the Trustees thereof, in the County of Wythe.

[PASSED, October 27, 1792.]

SECTION I. **W**HEREAS it is the interest of all wise, civilized, and free governments, to facilitate as much as may be, the diffusion of useful knowledge among its inhabitants; and whereas application hath been made to this assembly, to pass a law appointing trustees for an academy about to be built in the county of Wythe, and to incorporate them into a body politic :

Preamble.

SECT. II. *BE it therefore enacted*, That Alexander Smyth, John Preston, William Tate, George Hancock, Byrd Smith, Francis Preston, Walter Crockett, James McGavock, John Adams, Jehu Stephens, Jesse Evans, James Campbell, the Reverend John Stonger, Robert Sayer, and William Caffee, gentlemen, shall be, and they are hereby constituted a body politic and corporate, to be known by the name of The Trustees of Wythe academy, and by that name shall have perpetual succession and a common seal. The said trustees, and their successors, by the name aforesaid, shall be capable in law to purchase, receive and hold to them and their successors forever, any lands, tenements, rents, goods or chattels, of what kind soever, which shall be given or devised to, or purchased by them for the use of the said academy, and to sell and dispose of the same in such manner as to them shall seem most conducive to the advantage of the said academy. The said trustees, by the name aforesaid, may sue and be sued, implead and be impleaded, in any court of law or equity. They shall have power from time to time, to establish such bye-laws, rules, and ordinances, not contrary to the constitution and laws of this commonwealth, as they shall deem necessary for the government of the said academy. Not less than five of the said trustees shall constitute a board to determine upon any matter relative to the establishment, government, or support of the said academy; and no real estate belonging to the said academy, shall be disposed of unless a majority of the said trustees shall concur in opinion thereupon. Upon the death, resignation, or other legal disability of any of the said trustees, the vacancy thereby occasioned shall be supplied by the remaining trustees, or a majority of them. The said trustees shall elect a treasurer, who shall receive all monies accruing to the said academy, and property delivered to his care, and pay or deliver the same to the order of the said trustees; and before he enters on the execution of the duties of his office, shall give bond and security for such sum as the said trustees shall direct, payable to them, and their successors, and conditioned for the faithful discharge of the trust reposed in him; and that he will, when required by the said trustees, render to them a true account of all monies, goods, and chattels received by him on account of, and for the use of the said academy. The treasurer shall receive such salary as may be allowed and fixed by the trustees. If the treasurer shall fail to render, when thereunto required, a just and true account of all monies, goods and chattels, which have come to his hands by virtue of his office, and also of all expenditures for or to the said academy, he shall on such failure be subject to a judgment on motion in any court of record in this commonwealth; and execution may thereupon be awarded in like manner as against sheriffs for the non-payment of public taxes.

*Trustees appointed for the Wythe academy, and incorporated.**Their powers and duties.**How many shall constitute a board. Vacancies, how to be supplied. A treasurer to be appointed.*

An ACT for establishing a Bank in the Town of Alexandria.

[PASSED, November 23, 1792.]

Preamble.

SECTION I. **W**HEREAS the experience of commercial nations for several ages past, has fully evinced, that well-regulated banks are highly useful to society, by promoting punctuality in the performance of contracts, increasing the medium of trade, facilitating the payment of taxes, preventing the exportation of specie, furnishing for it a safe deposit, and by discount rendering easy and expeditious the anticipation of funds:

Subscription to be opened for the capital stock.

SECT. II. *BE it enacted by the General Assembly of this Commonwealth,* That a subscription be opened for one hundred and fifty thousand dollars, in shares of two hundred dollars each, and that subscriptions be taken under the direction of Philip R. Fendall, Robert T. Hooe, William Hartshorne, Josiah Watton, Thomas Porter, Richard Conway, William Herbert, Stephen Cook, William Wilson, Charles Lee, Ludwell Lee, Roger West, and Charles Simms.

Amount and division of the stock.

SECT. III. *AND be it further enacted, by the authority aforesaid,* That a share in the stock of the said bank shall be two hundred dollars, or the equivalent thereof in other specie, and that the number of shares shall not exceed seven hundred and fifty, and subscriptions shall be kept open under the direction of the president and directors of the said bank, until the said number of shares shall be filled.

Sums subscribed, when and how to be paid.

SECT. IV. *AND be it further enacted,* That the sums subscribed as aforesaid, shall be paid in the following manner, *viz.* Every subscriber at the time of subscribing shall pay ten dollars in specie, for each share by him subscribed, to the person or persons appointed by this act to take in subscriptions, and that the remaining one hundred and ninety dollars for each share, shall be paid to the president and directors of the bank elected agreeably to this act, as follows: Forty dollars as aforesaid, by every subscriber, for each share subscribed by him, within fifteen days from the election of said directors; twenty-five dollars as aforesaid by every subscriber for each share subscribed by him in thirty days from the election of the said directors; fifty dollars as aforesaid, by every subscriber, for each share subscribed by him, in sixty days from the election of the said directors; and the remaining seventy-five dollars as aforesaid, by every subscriber, for each share subscribed by him, in one hundred and twenty days from the election of the said directors. And if any such subscriber shall fail to make any of the future payments, he shall forfeit the sum or sums by him before paid, for the use of the bank, and shall also forfeit his right to his subscription. And the president and directors shall be at liberty to sell and dispose of such forfeited shares for the use and benefit of the bank.

Stockholders, how to vote.

Stock, how to be transferred.

SECT. V. *AND be it further enacted,* That every subscriber shall be entitled to vote by himself, his agent, or proxy appointed under his hand and seal, at all elections in virtue of this act, and shall have as many votes as he has shares, as far as ten shares, and not more than one vote for every five shares thereafter. And every stockholder may sell and transfer his stock in the said bank, or any part thereof, at his pleasure, not being less than one complete share or shares, the transfer being made in the bank books in the presence and with the approbation of the proprietor or his lawful attorney; the purchaser then to be entitled to all the rights which the original proprietor enjoyed.

Meeting of the subscribers to be called when 150 shares are subscribed.

Number of directors, and time of electing them.

And a president.

SECT. VI. *AND be it further enacted,* That as soon as one hundred and fifty shares be subscribed, the persons hereby empowered to take in subscriptions, or any seven of them, may call a meeting of the subscribers at the town of Alexandria, after not less than four successive weeks notice, in at least one of the Alexandria, Winchester, Dumfries, Frederickburg, and Richmond newspapers; and the subscribers assembled in consequence of such notice shall choose by ballot from among the subscribers by a majority of votes of such as shall be present, or by proxy, nine directors for the term of one year thereafter, and on the same day annually, for and during the continuance of this act, a like election shall be made, and in case of refusal, death, resignation, disqualification, or removal out of this commonwealth, of any director, the remaining directors at their next meeting thereafter, shall elect by ballot another person, qualified as aforesaid, in his place for the residue of the year. The directors, or any seven of them, shall at the first meeting after every general election, elect by a majority of members present, by ballot, from among the stockholders, a president, who shall, whether a director or not, be thereupon entitled to all the powers and privileges of one, and if he was before a director, another director shall be elected as aforesaid, so as to keep up the number of directors prescribed by this act, exclusive of the president; and in case of refusal, death, resignation or removal out of this commonwealth of the president, the directors shall meet as soon as conveniently can be thereafter, and elect another person for president in the manner before directed.

Subscribers to be a body politic; by what name and how long to continue.

May purchase real and personal estates.

Restrictions as to purchases of lands, tenements and hereditaments;

And of public securities or any goods or chattels

SECT. VII. *AND be it further enacted,* That all those who shall become subscribers to the said bank, their successors and assigns, shall be, and they are hereby created and made a body politic, by the name and stile of the President, Directors, and Company of the Bank of Alexandria, and so shall continue until the first day of January, one thousand eight hundred and three, and no longer: And by that name shall have succession, and shall be and are hereby made able and capable in law to have and purchase, receive, possess, enjoy and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of what kind, nature or quality soever, and the same to sell, grant, demise, alien or dispose of. And by the name aforesaid may sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in any court of law or equity in this commonwealth or elsewhere. And may do and execute every other matter and thing by the name aforesaid, that they are authorized to do by virtue of this act. *Provided always,* that the lands, tenements and hereditaments, which it shall be lawful for the said president, directors, and company to hold, shall be only such as shall be requisite for their immediate accommodation in relation to the convenient transacting their business, and such as shall have been bona fide mortgaged to them by way of security, or conveyed to them in satisfaction for debts, previously contracted in the course of their dealings. *Provided also,* that the said president and directors shall not purchase public securities of the United States, or of any individual state, or any goods, chattels, or effects, unless such as are sold by virtue of an execution, upon a judgment obtained by them, except such articles as may be necessary for them in transacting the business of the bank; but it shall and be lawful for them to receive and hold such securities, goods, chattels and effects by way of deposit for advances made by them to any person or persons, and on failure of payment, the same to sell and dispose of at public sale for ready money.

Directors to meet quarter-yearly; five to constitute a board.

SECT. VIII. *AND be it further enacted,* That there be a meeting of the directors quarterly for the purpose of regulating the affairs of the bank, any five of whom shall make a board, and that the board have power to adjourn from time to time, and the president or any three of the directors may call a special meeting at any other time they may think necessary.

To regulate mode of doing business;

To appoint officers;

May take 6 per cent per annum for discounts and make dividends of profits.

Cashier, how to be appointed.

Three directors to be chosen quarter-yearly to inspect the business.

SECT. IX. *AND be it further enacted,* That the board of directors shall determine the manner of doing business, and the rules and forms to be pursued, appoint and pay the various officers which they may find necessary, and dispose of the money and credit of the bank, for the interest and benefit of the proprietors. And are hereby authorized to receive for discounts made at the said bank, at a rate not exceeding six per centum per annum; and make at the expiration of the first year, a dividend of the profit or of such part thereof as they may think prudent, and thereafter shall make half yearly dividends.

SECT. X. *AND be it further enacted,* That in the appointment of a cashier of the said bank, a majority of the votes of seven directors shall be necessary to a choice.

SECT. XI. *AND be it further enacted,* That the board shall at every quarterly meeting choose three directors, to inspect the business of the bank for the ensuing three months, and the inspectors so chosen, or any two of them, shall on the evening of every Saturday, examine into the state of the cash account, and of the notes received and issued, and see that those accounts are regularly balanced and transferred.

Penalty on directors or others for any fraud or embezzlement.

SECT. XII. *AND be it further enacted,* That any director, officer or other person holding any share, or capital of the said bank stock, who shall commit any fraud or embezzlement touching the money or property of the said bank, shall be liable to be prosecuted in the name of the commonwealth by indictment for the same in any court of law for the district or county wherein the offence shall be committed, and upon conviction thereof, shall, besides the remedy that may be had by action

the name of the President, Directors and Company of the Bank of Alexandria, for the fraud aforesaid, forfeit all his share and stock in the said bank, to the company.

SECT. XIII. *AND be it further enacted*, That no stockholder, subscriber, or member of the said company, shall be answerable for any losses, deficiencies, or failure of the capital stock of the said bank for any more or larger sum or sums of money whatsoever, than the amount of the stock, stocks or shares which shall appear by the books of the said company to belong to him, at the time or times when such loss or losses shall be sustained, except as is hereafter excepted, that is to say: If the total amount of the debts which the said company shall at any time owe, whether by bond, bill, note, or other contract, shall exceed four times the amount of the capital stock of the said bank, over and above the monies actually deposited in the bank for safe keeping, then in case of such excess, the directors under whose administration it shall happen, shall be liable for such excess, in their natural and private capacities, and an action or actions of debt may be brought against them, or any of them, their heirs, executors or administrators, in any court of record within this commonwealth, by any creditor or creditors of the said company, and may be prosecuted to judgment and execution; any condition, covenant, or agreement to the contrary, notwithstanding; but this shall not be construed to exempt the said body politic, or the lands, tenements, goods or chattels of the same, from being also liable for, and chargeable with the said excess. Such of the said directors who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the mayor of the town of Alexandria, for the time being, and to the stockholders at a general meeting, which he or they shall have power to call for that purpose. And in case the directors, by whose act such excess shall be occasioned, shall not have property sufficient to pay the amount of such excess, then each and every stockholder shall be liable in their private capacities, for the deficiency, in proportion to their respective shares in the said bank.

Stockholders, how far responsible on failure of the capital stock.

Directors responsible when the debts exceed a certain sum.

Exception in favor of directors absent or dissenting.

Stockholders responsible if the property of the directors be insufficient.

No note to be issued for less than five dollars.

An account of the situation of the bank to be laid annually before the governor and council.

Allowances to directors and president, how to be made.

Who eligible as president or directors.

Cashier to give bond with security.

Who may become subscribers.

Directors, when they may be chosen.

Debts due to the bank, how to be recovered.

Creditors may have the same remedy against the company.

The state not bound to support the bank.

Death to forge notes or checks.

Commencement of this act.

SECT. XIV. *AND be it further enacted*, That the said president and directors shall not issue any note for a smaller sum than five dollars, and the said president and directors shall once in every year, lay before the Governor and Council of this commonwealth, an account, truly stating the situation of the bank and its funds.

SECT. XV. *AND be it further enacted*, That no director shall be entitled to any emolument, unless the same shall have been allowed by a majority of the stockholders at a general meeting; the directors shall make such compensation to the president for his extraordinary services and attendance at the bank, as shall appear to them reasonable.

SECT. XVI. *AND be it further enacted*, That none but a stockholder, being a resident of this commonwealth, shall be eligible as a president or director.

SECT. XVII. *AND be it further enacted*, That every cashier or treasurer, before he enters upon the duties of his office, shall give bond with two or more securities, to the satisfaction of the directors, for his good behaviour in office.

SECT. XVIII. *AND be it further enacted*, That it shall be lawful for any person, copartnership, or body politic, to subscribe for such or so many shares, as he, she, or they shall think fit, not exceeding fifty; but it shall not be lawful for any person, copartnership, or body politic, to subscribe for more than twenty-five shares in any one month.

SECT. XIX. *AND be it further enacted*, That in case it shall at any time happen, that an election of directors shall not be made on any day, when pursuant to this act, it ought to have been made, it shall and may be lawful on any other day, to hold and make an election of directors in such manner as shall have been regulated by the laws and ordinances of the said president and directors.

SECT. XX. *AND* whereas it is absolutely necessary, that debts due to the said bank should be punctually paid, to enable the directors to calculate with certainty and precision, on meeting the demands that may be made upon them, *Be it enacted*, That whenever any person or persons, indebted to the said bank, on bonds, bills, or notes, given or endorsed by them, with an express consent in writing, that they may be negotiable at the said bank, and shall refuse or neglect to make payment at the time the same may become due, and a suit shall be thereupon commenced against such defaulter, and a *captas ad respondendum* returned executed, or a copy left at the usual place of residence of such defaulter, at least ten days before the return day of such writ, the court shall cause an issue to be made up in such suit, and a trial shall be peremptorily had at the first court to which such writ shall be returnable, and judgment rendered accordingly; but if the writ shall not be executed, or a copy thereof left as aforesaid, ten days before the return day thereof, then the issue shall be made up and trial had at the next succeeding court, and in either case if the defendant or defendants do not appear and plead to issue as aforesaid, judgment shall be rendered against him or them by default, and from the judgment given in such cases there shall be no appeal, writ of error or *superedeas*, nor shall the defendant or defendants have a right to replevy the goods and chattels taken upon an execution issued upon a judgment obtained as aforesaid; and for the better direction of sheriffs, the clerk shall endorse on such executions, that the defendant hath not a right to replevy, and such writs may be made returnable, and trials may be had as above directed, at the district court, or at the quarterly or monthly courts of a county or corporation. And any creditor of the said company may proceed and have the same remedy against them, as by this act is given the said company against their debtors.

SECT. XXI. *PROVIDED*, That nothing in this act shall be construed as a pledge of public faith, that the legislature will in time coming enlarge the aforesaid stock, or shall be subject to the support thereof.

SECT. XXII. *AND be it further enacted*, That if any person or persons shall forge or counterfeit any of the notes or checks of the said bank, or pay or tender in payment or in any manner pass or offer to pass such forged or counterfeited note or check, knowing the same to be forged or counterfeited, and shall thereof be convicted in any court of law, having criminal jurisdiction within this commonwealth, he, she, or they shall be adjudged a felon or felons, and shall suffer death without benefit of clergy.

SECT. XXIII. THIS act shall commence and be in force from the passing thereof.

C H A P. LXXVII.

An ACT for establishing a Bank in the City of Richmond.

[PASSED, December 23, 1792.]

SECTION I. **W**HEREAS it is conceived that well regulated banks tend greatly to the advantage of agriculture, commerce and manufactures:

Preamble.

SECT. II. *BE it therefore enacted*, That a bank shall be established at the city of Richmond, to be called the Bank of Richmond; the capital stock whereof shall not exceed four hundred thousand dollars, divided into two thousand shares, each share to consist of two hundred dollars, and that subscriptions towards constituting the said stock shall on the first day of March next, be opened at the city of Richmond, under the superintendence of James McClurg, John Marshall, William Foushee, John Harvie, James Heron, Anthony Singleton, Nathaniel Anderson, John Hopkins, Robert Gamble, and George Pickett;—At Norfolk, under the superintendence of Thomas Newton, jun. John Kearnes, George Kelly, James Taylor, Robert Taylor, Donald Campbell, Moses Myers, Willis Wilson, and James Young;—At Petersburg, under the superintendence of Thomas Griffin Peachey, James Campbell, Joseph Jones, Robert Bolling, William Barksdale, Archibald Gracie, David Buchanan, Joseph Weiseger and John Grammer;—And at Fredericksburg, under the superintendence of Robert Patton, Fontaine Maury, James Summerville, Stephen Lacoste, and William S. Stone; which subscriptions shall continue open thirty days, at the expiration of which, the books containing the same shall be shut, and if more than three hundred shares shall be subscribed, either at Norfolk, or at Petersburg, or Fredericksburg, the persons herein appointed at each of those places respectively, to superintend the said subscriptions, shall strike from each person's subscription, in equal proportion, so much thereof, avoiding fractions or parts of

Bank established at Richmond. Amount and division of the stock. Subscriptions when & where to be opened.

shares, as will reduce the whole subscription, at such place, to three hundred shares, and the books containing such subscriptions shall, together with the money paid in consequence thereof, be immediately sent to the persons herein appointed to superintend the subscriptions at the city of Richmond. And provided the subscriptions made at the city of Richmond, shall exceed eleven hundred shares at the expiration of the aforesaid ten days, adding thereto so many shares as may be unsubscribed at Norfolk, Petersburg, or Frederickburg, so much shall be stricken therefrom as will reduce the same to eleven hundred shares, besides the shares which may be unsubscribed at any other place; and provided the sums subscribed within the said ten days, shall not amount to two thousand shares, the subscription at Richmond, shall again be opened as soon as the persons appointed to superintend the same, shall have opportunity of examining and ascertaining the deficiency, and shall continue open until the full amount of two thousand shares shall be fully subscribed; and if any person, when the Richmond subscription may be opened the second time, shall desire to enter his name as subscribing to the establishment of Norfolk, Petersburg, or Frederickburg, it shall be lawful for him to subscribe accordingly on the said Richmond books, placing the name of the town, of which he desires to become a subscriber, against his own name on the said subscription, and in such case the said town shall receive the same benefit therefrom, as if such subscription had been made at such town, whilst the books were there kept open.

When and how to be paid.

SECT. III. THE sums subscribed as aforesaid, shall be paid in gold or silver in the following manner, viz. Every subscriber shall at the time of subscribing, pay twenty dollars in specie for each share by him subscribed, to the person or persons appointed by this act to take in subscriptions, and that the remaining one hundred and eighty dollars for each share, shall be paid to the president and directors of the bank, elected agreeably to this act as follows, forty dollars, as aforesaid, by every subscriber, for each share subscribed by him, within thirty days from the election of the said directors; forty dollars as aforesaid, by every subscriber for each share subscribed by him, in ninety days from the election of the said directors; fifty dollars as aforesaid, by every subscriber, for each share subscribed by him, in one hundred and twenty days from the election of the said directors; and the remaining fifty dollars as aforesaid, by every subscriber, for each share subscribed by him, in one hundred and eighty days from the election of the said directors.

How stockholders shall vote.

SECT. IV. IF any such subscriber shall fail to make any of the future payments, he shall forfeit the sum or sums by him before paid, for the use of the bank, and shall also forfeit his right to his subscription; and the president and directors shall sell and dispose of such forfeited shares, for the use and benefit of the bank.

Stock, how it may be transferred.

SECT. V. EVERY subscriber shall be entitled to vote by himself, his agent, or proxy appointed under his hand and seal, at all elections in virtue of this act, and shall have as many votes, as he has shares as far as ten shares, and not more than one vote for every five shares thereafter.

A meeting of the subscribers to be called when 400 shares are subscribed. Number of directors, and time and mode of choosing them; and a president.

SECT. VI. EVERY stockholder may sell and transfer his stock in the said bank, or any part thereof, at his pleasure, not being less than one complete share or shares, the transfer being made in the bank books, in the presence and with the approbation of the proprietor, or his lawful attorney, and such purchaser shall be entitled to all the rights which the original proprietor enjoyed.

Subscribers to be a body politic; by what name and how long to continue. May purchase real and personal estates. Restriction as to purchases of lands, &c.

SECT. VII. AND be it further enacted, That as soon as four hundred shares shall be subscribed, the persons hereby empowered to take in subscriptions, or any four of them, may call a meeting of the subscribers at the city of Richmond, after giving notice thereof, four weeks successively, in at least one of the Richmond newspapers, and the subscribers assembled in consequence of such notice, shall choose by ballot, from among the subscribers, by a majority of votes, of such as shall be present, or by proxy, twenty directors for the term of one year thereafter, and on the same day annually, for and during the continuance of this act, a like election shall be made, and in case of refusal, death, resignation, disqualification, or removal out of this commonwealth, of any director, the remaining directors at their next meeting, shall elect by ballot, another person qualified as aforesaid, in his stead, for the residue of the year. The directors, or any eleven of them, shall at their first meeting, after every general election, elect by a majority of members present, by ballot from among the stockholders, a president, who shall, whether a director or not, be thereupon entitled to all the powers and privileges of one, and if he was a director, at the time of his being elected a president, another director shall be elected, as aforesaid, so as to keep up the number prescribed by this act, exclusive of the president, and in case of refusal, death, resignation or removal out of this commonwealth, of the president, the directors shall meet as soon thereafter, as they conveniently can, and elect another person for president, in the manner before directed.

and of public securities or any goods or chattels.

SECT. VIII. AND be it further enacted, That all those who shall become subscribers to the said bank, their successors and assigns shall be, and they are hereby created and made a body politic, by the name and style of the President, Directors and Company of the Bank of Richmond, and so shall continue until the first day of January, one thousand eight hundred and four, and no longer; and by that name shall have succession, and be able and capable in law to have, receive, purchase, possess, enjoy and retain to them and their successors, lands, tenements, hereditaments, rents, goods, chattels and effects of what nature or quality soever, and the same to sell, grant, demise, alien or dispose of. And by the name aforesaid, to sue or be sued, plead and be impleaded, answer and be answered in any court of law or equity in this commonwealth or elsewhere. Provided always, that the president, directors and company shall only hold such lands, tenements and hereditaments, which shall be requisite for their immediate accommodation as to the convenient transaction of their business, and such as shall have been bona fide mortgaged to them by way of security for, or conveyed to them in satisfaction of, debts previously contracted in the course of their dealings. Provided also, that the president and directors, shall not purchase public securities of the United States, or of any individual state, or any goods, chattels, or effects, unless it be such as are sold by virtue of an execution upon a judgment obtained by them or deposits forfeited, excepting such articles as may be necessary for them in transacting the business of the bank, but it shall be lawful for them to receive and hold such securities, goods, chattels and effects, by way of deposit for advances made by them to any person or persons, and on failure of payment, the same to sell and dispose of at public auction, for ready money.

Directors to meet quarterly: a board, how constituted. Special meetings how to be called; to regulate the business of the bank. To appoint officers. May take 6 per cent, per annum for discounts.

SECT. IX. THERE shall be a meeting of the directors, quarterly, for the purpose of regulating the affairs of the bank, any seven of whom shall make a board, with power to adjourn from time to time, of whom the president shall always be one, except in cases of sickness or necessary absence, in which cases the director present, having the greatest number of votes, shall act as president, pro tempore; and the president or any three of the directors may call a special meeting at any other time they may think necessary.

And make dividends of profits. Cashier, how to be appointed. Three directors to be chosen quarterly to inspect the business.

SECT. X. THE board of directors shall determine the manner of doing business, and the rules and forms to be pursued, appoint and pay the various officers which they may find necessary, and dispose of the money and credit of the bank, for the interest and benefit of the proprietors; and are authorized to receive for discounts made at the said bank, a rate not exceeding six per centum per annum; and at the expiration of the first year, to make a dividend of the profit, or of such part thereof, as they may think prudent, and thereafter shall make half yearly dividends.

Penalty on president, directors or others for any fraud or embezzlement.

SECT. XI. THAT in the appointment of a cashier of the said bank, a majority of the votes of the whole number of the directors shall be necessary to a choice.

SECT. XII. THAT the board shall, at every quarterly meeting, choose three directors to inspect the business of the bank for the ensuing three months, and the inspectors so chosen, or any two of them, shall once at least in every eight days examine into the state of the cash account, of the notes received and issued, and see that those accounts are regularly balanced and transferred.

SECT. XIII. AND be it further enacted, That any president, director, cashier, clerk, door-keeper, or other officer or servant who shall commit any fraud or embezzlement touching the money or property of the said bank, shall be liable to be prosecuted in the name of the commonwealth, by indictment for the same in any court of law, for the county or district wherein the offence shall be committed, and upon conviction thereof, shall besides the remedy that may be had by action in the name of the President, Directors and Company of the Bank of Richmond, for the fraud aforesaid, forfeit all his share and stock, in the said bank, to the company, and moreover shall suffer imprisonment, or such other corporal punishment, as the court may, on conviction thereof, direct.

SECT. XIV. NO stockholder, subscriber, or member of the said company shall be answerable for any losses, deficiencies or failure of the capital stock of the said bank, or for any more or a larger sum or sums of money whatsoever, than the amount of the stock, stocks, or shares which shall appear by the books of the said company, to belong to him at the time or times when such loss or losses shall be sustained, and when the losses, deficiencies and failure shall be for more than the said capital stock, shall be answerable in their several private capacities for any greater sum than in proportion to the amount of their stock, stocks, or shares respectively, except as is hereafter excepted, that is to say: If the total amount of the debts, which the said company shall at any time owe, whether by bond, bill, note or other contract, shall exceed four times the amount of the capital stock of the said bank, over and above the moneys actually deposited in the bank for safe keeping, the directors, under whose administration such excess shall happen, shall be liable for such excess in their private capacities, and an action or actions of debt may be brought against them or any of them, their heirs, executors, or administrators, in any court of record within this commonwealth, by any creditor or creditors of the said company, and may be prosecuted to judgment and execution, any condition, covenant, or agreement to the contrary notwithstanding; but this shall not be construed to exempt the said body politic, or the lands, tenements, goods, or chattels of the same from being also liable for and chargeable with the said excess. Those of the said directors who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the mayor of the city of Richmond, for the time being, and to the stockholders at a general meeting, which he or they shall have power to call for that purpose. If the directors by whose act such excess shall be occasioned, have not property sufficient to pay the amount of such excess, then each and every stockholder shall be liable in their respective private capacities for the deficiency, in proportion to their respective shares in the said bank. The president and directors shall not issue any note for a smaller sum than five dollars, and shall once in every year, lay before the Governor and Council of this commonwealth, an account, truly stating the situation of the bank and its funds.

Stockholders how far responsible on failure of the capital stock.

Directors responsible if the debts exceed a certain sum.

Exception in favor of directors absent or dissenting.

Stockholders responsible if the property of the directors be insufficient.

SECT. XV. THE directors shall make such compensation to the president for his extraordinary services and attendance at the bank, as shall appear to them reasonable; and no director shall be entitled to any emolument, unless the same shall have been allowed by a majority of stockholders at a general meeting.

Compensation to the president and directors how to be made.

SECT. XVI. NONE but a stockholder, and resident of this commonwealth, shall be eligible as a president or director.

Who eligible as president or directors.

SECT. XVII. EVERY cashier or treasurer, before he enters upon the duties of his office, shall give bond with two or more securities, to the satisfaction of the directors, for his good behaviour in office.

Cashier to give bond with security.

SECT. XVIII. IT shall be lawful for any person, copartnership, or body politic, to subscribe for such or so many shares, as he, she, or they may think fit, not exceeding fifty; but it shall not be lawful for any person, copartnership, or body politic, to subscribe for more than twenty-five shares in any one month.

Who may become subscribers.

SECT. XIX. IF an election of directors shall not be made, on any day when it ought to have been made pursuant to this act, it shall be lawful to make an election of directors on any other day, in such manner as shall be regulated and fixed by the laws and ordinances of the said president and directors.

Directors when they may be chosen.

SECT. XX. AND whereas it is necessary that debts due to the said bank should be punctually paid, to enable the directors to calculate with certainty and precision on meeting the demands that may be made upon them: Be it therefore further enacted, That every person or persons indebted to the said bank, on bonds, bills, or notes, given or endorsed by them, with an express consent in writing, that they may be negotiable at the said bank, and shall refuse or neglect to make payment, at the time the same may become due, and a suit shall be thereupon commenced against such defaulter, and a *capias ad respondendum* returned executed, or a copy left at the usual place of residence of such defaulter, at least ten days before the return day of such writ, the court shall cause an issue to be made up in such suit, and a trial shall be peremptorily had at the first court to which such writ shall be returnable, and judgment rendered accordingly. *Provided nevertheless*, That if good cause be shown to the court for a continuance of the suit to the succeeding court, it may be lawful to continue the same, the party praying the continuance giving bond and security, to be approved of by the court, to abide by the judgment to be rendered in the said suit.

Debts due to the bank, how recoverable.

SECT. XXI. IF the writ shall be executed, or a copy left as aforesaid, within less than ten days before the return day thereof, then the issue shall be made up and trial had at the next court succeeding the term to which such precept shall have been returnable, and in either case if the defendant or defendants do not appear and plead to issue, judgment shall be rendered against him or them by default, and there shall be no appeal, writ of error, or *superfedeas* granted from the judgments given in such cases, nor shall the defendant or defendants have a right to replevy the goods and chattels taken upon an execution issued on a judgment obtained as aforesaid; and for the better direction of sheriffs, serjeants, or other officers, the clerk shall endorse on such execution, that "no security is to be taken." Such writs may be made returnable, and trials had as above directed, at the district court, or at the quarterly or monthly courts of a county or corporation. And any creditor of the said company, may proceed and have the same remedy against them, as by this act is given the said company against their debtors.

The same remedy extended to creditors of the bank.

SECT. XXII. IF any person or persons shall alter, erase, forge, or counterfeit, any of the notes or checks of the said bank, or pay or tender in payment, or in any manner pass or offer to pass, such altered, erased, forged or counterfeited note or check, knowing the same to be altered, erased, forged or counterfeited, and shall thereof be convicted in any court of law having criminal jurisdiction within this commonwealth, he, she, or they shall be adjudged a felon or felons, and shall suffer death without benefit of clergy.

Death to forge, alter or erase notes or checks.

SECT. XXIII. *PROVIDED always*, That nothing in this act shall be construed as a pledge of public faith, that the legislature will in time coming enlarge the aforesaid stock, or shall be subject to the support thereof.

The state not bound to support the bank.

SECT. XXIV. *AND be it further enacted*, That it shall be lawful for the directors aforesaid, to establish offices wherever they shall think fit within the state, either with separate directions or agents, and that any town holding three hundred shares, shall have a right to an agent, who shall at the risk and expence of the bank forward bills offered for discount to the directors, and if approved make the advance, and when due collect the money. *Provided*, That no office established in any town as aforesaid, shall be discontinued, unless there shall be for the space of three months a deficiency in the number of shares required by this act to entitle such town to an office of discount. And that no office of discount established by virtue of this act, shall be compelled to pay in specie any other notes than such as shall or may be issued by such office.

Directors may establish offices at other places in the state.

C H A P. LXXXVIII.

An ACT directing duplicates of a Warrant and Certificates to be issued to James Upshaw, Junior, Christopher Robertson, and Others.

[PASSED, November 15, 1792.]

SECTION I. *BE it enacted by the General Assembly*, That the auditor of public accounts shall issue to James Upshaw, junior, a duplicate of a warrant in the name of John Edmondson, for the sum of twenty-one pounds three shillings, in lieu of the original warrant which he hath lost; also to Christopher Robertson, duplicates of two military certificates, one in the name of David Williams, a lieutenant, dated the eighteenth day of June, one thousand seven hundred and eighty-three, for the sum of fifty pounds, the other in the name of John Beasley, dated the twenty-seventh day of May, one thousand seven hundred and eighty-seven, for the sum of twenty-seven pounds two shillings and seven pence, in lieu of the originals, which he hath lost; also to Samuel Coleman, a duplicate of a military certificate in his own name, for the sum of five

Duplicate warrants and certificates to be issued to James Upshaw, jun. to Christopher Robertson, to Samuel Coleman,

to William Hill,
and to John Sledd.

Bond and security to be
given by them to in-
demnify the common-
wealth and the Unit-
ed States.

ty-four pounds six shillings and eight pence; also to William Hill, duplicates of four military certificates, one in the name of John Bartlett, for one hundred and two pounds three shillings and ten pence, one in the name of George Fitzgerald, for thirty-six pounds, one in the name of Daniel Tyler, for seventeen pounds eight shillings and four pence, and one in the name of Osborne Coffee, for the sum of eighteen pounds fifteen shillings and four pence; and also to John Sledd, a duplicate of a military certificate in his own name, for the sum of fifty pounds eleven shillings and seven pence, in lieu of the originals which they have respectively lost.

SECT. II. *PROVIDED* always, and be it further enacted, That the said James Uphaw, Christopher Robertson, Samuel Coleman, William Hill, and Jon Sledd, shall, previous to the obtaining the said duplicates, respectively enter into bond with sufficient security, to be approved of by the Executive, to indemnify the commonwealth, and the United States.

C H A P. LXXIX.

An ACT directing duplicates of Certificates and Warrants to be issued to certain Persons.

[PASSED, December 13, 1792.]

Duplicate certificates
and warrants to be is-
sued to Joseph San-
didge,
to Lockett Mitchell,

to Nathan Ryan,
to Alexander St. Clair,
to John Guthry,

and to Charles Ander-
son.

Number and date of
certificate in the name
of Edward Walker to
be ascertained before
duplicate is issued.

Bond and security to be
given by them to in-
demnify the common-
wealth and the United
States.

Commencement of this
act.

SECTION I. *BE* it enacted by the General Assembly, That the auditor of public accounts shall issue to Joseph Sandidge, duplicates of two military certificates, one in his own name, dated the twenty-eighth day of November one thousand seven hundred and eighty-three, for the sum of fifteen pounds eight shillings and three pence, the other in the name of John Harris, dated the twenty-second day of January, one thousand seven hundred and eighty-three, for eighty-nine pounds four shillings and three pence; also duplicates of six military certificates to Lockett Mitchell, to wit, one in the name of Daniel Dunnevant, dated August the fourth, one thousand seven hundred and eighty-three, for fifteen pounds eleven shillings and eight pence, one other in the name of Simon Golding, dated the twentieth day of May, one thousand seven hundred and eighty-three, for fifty-four pounds sixteen shillings and five pence, one other in the name of William Belches, dated the second day of December, one thousand seven hundred and eighty-three, for fifteen pounds twelve shillings, one other in the name of Sterling Clack, dated the sixth day of December, one thousand seven hundred and eighty-three, for thirteen pounds nineteen shillings, one other in the name of Alexander Elan, dated the fourteenth day of November, one thousand seven hundred and eighty-three, for fifty-nine pounds eleven shillings and six pence, and also one other certificate in the name of Edward Walker, for the sum of fifty-six pounds fourteen shillings and eight pence; also to Nathan Ryan, duplicates of two pension warrants in the name of James Powell Edmondson, for the sum of twenty-four pounds each; also to Alexander St. Clair, a duplicate of a military certificate in the name of John M'Glamery, for the sum of thirty-six pounds; also to John Guthry, a duplicate of a military certificate in the name of William Herbert, dated the twenty-first day of March, one thousand seven hundred and eighty-three, for eighty-eight pounds fifteen shillings, and a duplicate of a loan-office certificate, number one thousand nine hundred and thirty-nine, for one pound nine shillings and five pence; also a duplicate of a military certificate to Charles Anderson in his own name, for the sum of thirty-six pounds, in lieu of the original warrants which the said Sandidge, Mitchell, Nathan Ryan, Alexander St. Clair, John Guthry, and Charles Anderson, have respectively lost.

SECT. II. *PROVIDED* nevertheless, That the auditor of public accounts shall not issue a duplicate certificate in the name of Edward Walker, until the date and number of the original certificate be ascertained.

SECT. III. *PROVIDED* always, and be it further enacted, That the said Joseph Sandidge, Lockett Mitchell, Nathan Ryan, Alexander St. Clair, John Guthry, and Charles Anderson, shall, previous to obtaining the said duplicates, respectively enter into bond with sufficient security, to be approved of by the Executive, to indemnify the commonwealth, and the United States.

SECT. IV. THIS act shall commence in force from and after the passing thereof.

C H A P. LXXX.

An ACT directing the Register of the Land-Office to issue a Land Warrant to Bellfield Cave.

[PASSED, November 17, 1792.]

A land warrant to be
issued to Bellfield Cave.

Commencement of this
act.

SECTION I. *BE* it enacted by the General Assembly, That the register of the land-office shall, and he is hereby directed, to issue a land warrant or warrants to Bellfield Cave, for the amount of certain money paid by him into the treasury of this commonwealth, under an Act for calling in and sunting paper money, apportioning the quantity of land to the value of the said payment into the treasury, at the time the same was made.

SECT. II. THIS act shall commence and be in force from and after the passing thereof.

C H A P. LXXXI.

An ACT authorizing the Register of the Land-Office to issue a Land Warrant in favor of Robert Shelton and others.

[PASSED, December 12, 1792.]

Land warrants to be
issued to Robert Shel-
ton,
John Carey, and the
representatives of
Martha, the daughter
of John Williams, de-
ceased.

Shelton to produce au-
ditor's certificate en-
titled him to the land.
Commencement of this
act.

SECTION I. *BE* it enacted by the General Assembly, That it shall be lawful for the register of the land-office, and he is hereby required, upon application to him made, to issue a warrant or warrants in favor of Robert Shelton, for fourteen hundred twenty-four and a half acres of waste and unappropriated land within this state; also a warrant or warrants in favor of John Carey, who intermarried with Elizabeth one of the daughters of John Williams, deceased, who served as a lieutenant in the Virginia regiment, commanded by George Washington, in the year one thousand seven hundred and fifty-eight, for one thousand acres; and to the legal representatives of Martha, the other daughter of the said John Williams, one thousand acres of waste and unappropriated land within this state.

SECT. II. *PROVIDED* that the said Robert Shelton shall produce to the register a certificate or certificates from the auditor of public accounts, entitling him to the said quantity of land.

SECT. III. THIS act shall commence and be in force from and after the passing thereof.

C H A P. LXXXII.

An ACT for issuing Certificates to several Persons.

[PASSED, December 13, 1792.]

Certificates to be issued
to Susanna Woodward,

SECTION I. *BE* it enacted by the General Assembly, That the auditor of public accounts shall issue to Susanna Woodward, a certificate for seven hundred and thirty-five pounds weight of beef, rating the same at the price heretofore allowed by law.

SECT. II. *AND be it further enacted*, That the auditor of public accounts shall in like manner issue a certificate to William Street, for three hundred and seventy-five pounds weight of beef, after and at the rate heretofore allowed by law.

SECT. III. HE shall also issue to the said William Street, a certificate for the hire of a waggon and team fifteen days for the purpose of removing state stores from the city of Richmond to the Point of Fork, in the year one thousand seven hundred and eighty-one, estimating the hire thereof at the sum of ten shillings per day.

SECT. IV. THIS act shall commence in force from and after the passing thereof.

Commencement of this act.

C H A P. LXXXIII.

An ACT directing the Auditor of Public Accounts to issue Certificates to certain Persons.

[PASSED, December 17, 1792.]

SECTION I. *BE it enacted by the General Assembly*, That the auditor of public accounts, shall, and he is hereby directed and required, on application to him made, to issue to John Cooke, a certificate for sixty days employ of a sloop in public service, during the late war, estimating the daily hire of the said sloop at forty shillings.

Certificates to be issued to John Cooke,

SECT. II. HE shall in like manner issue a certificate to Richard Sampson, for eighty-one bushels and one peck of wheat delivered at Dover mill in the county of Goochland for public use, during the late war, rating the same at the price heretofore allowed by law.

to Richard Sampson,

SECT. III. THE auditor of public accounts shall also issue to Thomas Spratley, administrator of Philip West, deceased, a certificate for forty barrels of corn furnished the public in the year one thousand seven hundred and eighty one, estimating the same at ten shillings per barrel.

and to the administrator of Philip West.

SECT. IV. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this act.

C H A P. LXXXIV.

An ACT authorizing the Auditor to issue to the Heir and Representative of Colonel Joseph Hutchings, deceased, a Loan-Office Certificate for Property destroyed in the Borough of Norfolk.

[PASSED, October 19, 1792.]

SECTION I. *WHEREAS* it has been represented to the General Assembly, that Colonel Joseph Hutchings, deceased, was seized and possessed of certain property in the borough of Norfolk, which at the time of the destruction thereof was burnt by the troops of this commonwealth; and whereas the commissioners by law appointed to estimate the value of property destroyed in the said borough, have valued that of the deceased to the sum of one thousand seven hundred and seventeen pounds, and reported the same as of and belonging to a friend of the late revolution; but the said Colonel Joseph Hutchings dying in captivity on board one of the British ships of war, and his children being of tender years at the time of his death, no application has been made for such compensation as has been extended to others in similar circumstances:

Preamble.

SECT. II. *BE it therefore enacted by the General Assembly*, That the auditor of public accounts shall, and he is hereby directed, to issue to the heir and representative of the said Colonel Joseph Hutchings, deceased, or to his attorney legally authorized, a loan-office certificate or certificates for the said property, conformably to the valuation thereof by the commissioners, with warrants for the interest due thereon, after the rate of five per centum per annum from the period of the said valuation, in like manner as has been heretofore issued for property destroyed in the borough of Norfolk.

A loan office certificate to be issued to the heir of Joseph Hutchings, deceased.

SECT. III. THIS act shall commence and be in force from and after the passage thereof.

Commencement of this act.

C H A P. LXXXV.

An ACT for paying Anthony Walke, Executor of Anthony Walke, deceased, for certain Property destroyed in the Borough of Norfolk.

[PASSED, November 20, 1792.]

SECTION I. *WHEREAS* certain property belonging to Anthony Walke, deceased, situated in the borough of Norfolk, was at the time of the destruction of the said borough, burnt by the troops of this state, and valued by the commissioners appointed for that purpose, to the sum of three hundred and seventy-two pounds, the amount of which valuation has been hitherto withheld, under an ill founded charge of disaffection to his country:

Preamble.

SECT. II. *BE it therefore enacted by the General Assembly*, That the auditor of public accounts shall issue to Anthony Walke, executor of the said Anthony Walke, deceased, or to his lawful attorney, a loan-office certificate for the amount of the said property, conformably to the valuation aforesaid, and in the manner heretofore pursued in the case of sufferers by fire in the said borough.

A loan office certificate to be issued to Anthony Walke's executor.

SECT. III. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this act.

C H A P. LXXXVI.

An ACT directing the Auditor of Public Accounts to issue a Certificate to John Stewart.

[PASSED, December 20, 1792.]

SECTION I. *BE it enacted by the General Assembly*, That the auditor of public accounts, shall be, and he is hereby directed, on application to him made, to issue to John Stewart, a certificate for the sum of thirty-three pounds twelve shillings and nine-pence, for certain supplies furnished the ship Washington, captain Willis Wilson, who being on a cruise in the year one thousand seven hundred and seventy-nine, with a full complement of men, was compelled for the want thereof to put into port, and having received the same, was thereby enabled to pursue the objects of his cruise.

A certificate to be issued to John Stewart.

SECT. II. THIS act shall commence in force from and after the passing thereof.

Commencement of this act.

C H A P. LXXXVII.

An ACT concerning a Warrant issued to John Cox.

[PASSED, November 12, 1792.]

A warrant issued to John Cox to be paid out of the aggregate fund.

BE it enacted by the General Assembly, That a warrant heretofore issued by the auditor of public accounts to John Cox, for the sum of two hundred pounds, shall be paid by the treasurer of this commonwealth out of the fund denominated the aggregate fund.

C H A P. LXXXVIII.

An ACT for placing James M^cAmish on the List of Pensioners.

[PASSED, November 29, 1792.]

Preamble.

WHEREAS it is represented to this General Assembly, that James M^cAmish, a soldier in the militia of this state, did at the siege of York, in the year one thousand seven hundred and eighty-one, receive a wound in his arm, whereby he is disabled from supporting himself by labour, and as this Assembly is at all times willing to make provision for such meritorious citizens as have suffered in the service of the commonwealth:

James M^cAmish placed on the list of pensioners.

SECT. I. *BE it therefore enacted,* That the said James M^cAmish, be put on the pension list, and that he receive the annual sum of fifteen pounds per annum during his life, to commence from the passage of this act.

Commencement of this act.

SECT. II. This act shall commence in force from and after the passing thereof.

C H A P. LXXXIX.

An ACT for increasing the Pension of Richard Taylor.

[PASSED, December 15, 1792.]

Richard Taylor allowed a pension of £. 120 per annum.

SECT. I. *BE it enacted by the General Assembly,* That in lieu of the pension heretofore allowed to Richard Taylor, late a captain in the navy of this commonwealth, he shall annually have and receive the sum of one hundred and twenty pounds.

Commencement of this act.

SECT. II. THIS act shall commence and be in force from and after the passing thereof.

C H A P. XC.

An ACT for allowing Pensions to several Persons.

[PASSED, December 20, 1792.]

Pensions to be paid annually to

*Alexander Stewart,
Louis Rouse,
Benjamin Taylor,
Judith Carter,
Benjamin Blackburne,
Elinor Crittenden,
Margaret Carr,
Mary Whitt,
Mary Dillard,
Margery Groten,
Alice M^cClintick,
and Henry Salmon.*

SECT. I. *BE it enacted by the General Assembly,* That the several persons herein after named, shall be placed on the pension list, and annually have and receive the following allowances, payable in the like manner and proportions with other pensioners: Alexander Stewart, a soldier disabled by wounds received at the battle of the Point in the year one thousand seven hundred and seventy-four, the sum of eight pounds; Louis Rouse, a soldier wounded at the action near Petersburg in the year one thousand seven hundred and eighty-one, and thereby rendered unable to support himself by labour, the like sum of eight pounds; Benjamin Taylor, a soldier in the Illinois regiment, wounded in an engagement with the Indians in the year one thousand seven hundred and eighty-one, the sum of fifteen pounds; Judith Carter, widow of Charles Carter, who at an early period of the late war enlisted as a soldier, and died shortly after, leaving the said Judith and a numerous family of children in very indigent circumstances, the sum of twelve pounds; Benjamin Blackburne, a serjeant in the regiment of riflemen commanded by colonel Charles Lewis, and disabled by several wounds received at the battle of the Point in the year one thousand seven hundred and seventy-four, the sum of fifteen pounds; Elinor Crittenden, Margaret Carr, Mary Whitt, Mary Dillard, Margery Groten, and Alice M^cClintick, widows of soldiers who died in the service of this commonwealth during the late war, each the sum of twelve pounds; and Henry Salmon, who was a soldier in the service of the state, and in the course of his service received several wounds, which have of late broken out afresh and disabled him from gaining a livelihood by labour, the like sum of twelve pounds.

Arrears of Benjamin Taylor's pension to be paid.

SECT. II. *AND be it further enacted,* That the auditor of public accounts shall issue to the aforesaid Benjamin Taylor, warrants for the arrearage of pension due him from the twenty-eighth day of April, one thousand seven hundred and eighty-nine, to the present time, rating the same at the sum of seven pounds ten shillings per annum.

Certain sums to be paid to Judith Carter, Elinor Crittenden, Henry Salmon, Margery Groten, Margaret Carr, and Alice M^cClintick, for their immediate relief. Thomas Finn allowed a pension of £. 75 per annum.

SECT. III. *AND be it further enacted by the General Assembly,* That the auditor of public accounts shall in like manner issue a warrant to the said Judith Carter, Elinor Crittenden, and Henry Salmon, each for the sum of twelve pounds; and to the said Margery Groten, Margaret Carr, and Alice M^cClintick, each a warrant for the sum of ten pounds, for their immediate relief.

Samuel Kirkpatrick allowed a pension of £. 15 per annum.

SECT. IV. *AND be it further enacted,* That in lieu of the pension heretofore allowed to Thomas Finn, a captain of the artillery in the late war, he shall annually and henceforward receive and be allowed the sum of seventy-five pounds, and that in lieu of the pension heretofore allowed to Samuel Kirkpatrick, a soldier in the service of this commonwealth, during the late war, he shall receive and be paid the annual sum of fifteen pounds.

SECT. V. THIS act shall commence and be in force from and after the passing thereof.

C H A P. XCI.

An ACT authorising the Register of the Land-Office to issue a duplicate Land Warrant to the Heirs of John Wilkins, deceased.

[PASSED, November 29, 1792.]

A duplicate land warrant to be issued to Nathaniel Wilkins, for the heir of John Wilkins deceased.

SECT. I. *BE it enacted by the General Assembly,* That it shall be lawful for the register of the land-office, and he is hereby required, upon application to him made, to issue a duplicate warrant to Nathaniel Wilkins, in trust for the use and benefit of the heirs of John Wilkins, late of the county of Northampton, deceased, for seven thousand five hundred acres of waste and unappropriated land within this state, in lieu of a warrant which originally issued in the life-

time of the said John Wilkins, deceased, for the said quantity of land, and which was consumed by fire previous to the location thereof.

SECT. II. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this act.

C H A P. XCH.

An ACT to emancipate Rose, and her Children David, Judy, and Katy.

[PASSED, November 21, 1792.]

SECTION I. **W**HEREAS it is represented that a negro woman named Rose, did on the twenty-ninth day of December, one thousand seven hundred and eighty-eight, pay to her then master and owner, Rice Parker, of the county of Caroline, the sum of fifty pounds in full for her future services and labor; and did also on the sixth day of March, one thousand seven hundred and eighty-nine, pay to the said Rice Parker the sum of twenty-five pounds for the future services and labor of two of her children named Judy and Katy; and did on the first day of March, one thousand seven hundred and ninety-two, pay to George Pickett, the sum of fifty pounds in full for the future services and labor of her son David; and the said Rose, alias Rosetta Hailstock, hath made application to this Assembly to pass an act for emancipating not only herself, but also her said children David, Judy, and Katy, which it is judged right to do:

Preamble.

SECT. II. *BE it therefore enacted*, That the said Rose, alias Rosetta Hailstock, together with her said three children David, Judy, and Katy, shall from and after the passing of this act, have and enjoy as full and ample freedom, as if they had severally been born free.

Rose, alias Rosetta Hailstock, and her children David, Judy and Katy emancipated. Saving the rights of all except Rice Parker and George Pickett.

SECT. III. *SAVING* to all persons, other than the said Rice Parker and George Pickett, and those claiming under them, all such right and title to the said Rose, alias Rosetta Hailstock, David, Judy and Katy, and the descendants of the females, as they or any of them could or might have if this act had never been made.

C H A P. XCIII.

An ACT for the Manumission of a Negro named Saul.

[PASSED, November 13, 1792.]

SECTION I. **I**N consideration of many very essential services rendered to this commonwealth, during the late war, by a certain negro named Saul, now the property of George Kelly, of Norfolk;

Preamble.

SECT. II. *BE it enacted by the General Assembly*, That the Executive shall forthwith, or as soon as may be, appoint one fit person, and George Kelly, owner of the said slave, one other person, who shall jointly ascertain and fix the value of the said slave, and certify such valuation to the auditor of public accounts, who shall thereupon issue to the said George Kelly a warrant for the amount, payable out of the contingent fund.

The value of Saul a slave belonging to George Kelly to be ascertained and paid by the public; After the valuation Saul to be emancipated.

SECT. III. *AND be it further enacted*, That from and after the said valuation, the said Saul shall have and enjoy full liberty and freedom, in like manner as if he had been born free.

SECT. IV. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this act.

C H A P. XCIV.

An ACT authorizing the Emancipation of Abraham, a Negro Slave, late the property of Benjamin Temple.

[PASSED, November 16, 1792.]

SECTION I. **W**HEREAS it hath been represented, that a free negro man, who was a resident of King William county, hath lately departed this life, leaving the management of his estate to a certain William Spiller, and among other things directed that he should purchase and emancipate Abraham, a negro man slave, the property of Benjamin Temple, Esquire, of the said county, the said Abraham being the son of the said decedent: *AND WHEREAS* in conformity to the request and desire of the said decedent, the said William Spiller hath purchased the said negro man slave Abraham, and hath petitioned this Assembly for a law to pass authorizing the emancipation of the said slave:

Preamble.

SECT. II. *BE it therefore enacted*, That the said negro man slave Abraham, shall be free in as full and ample a manner, as if he had been born free.

Abraham a slave late the property of Benjamin Temple emancipated. Commencement of this act.

SECT. III. THIS act shall commence and be in force from and after the passing thereof.

C H A P. XCV.

An ACT concerning Henry Stratton.

[PASSED, November 13, 1792.]

SECTION I. *BE it enacted by the General Assembly*, That the Executive may, and they are hereby requested and empowered, to settle the claim of Henry Stratton against this commonwealth, and if on such settlement, there appear a balance in his favor, that they direct the auditor of public accounts to issue to the said Henry Stratton, or his legal attorney, a warrant for the amount thereof, payable out of the aggregate fund.

Henry Stratton's claim against the commonwealth to be liquidated and paid.

SECT. II. *AND be it further enacted*, That the auditor shall issue to the said Henry Stratton, on application in person, or by attorney, a warrant for the sum of fifty-nine pounds one shilling, payable out of any money in the hands of the treasurer, it being one moiety of the proceeds of a vessel belonging to the said Stratton, sold under a decree of the court of admiralty, and paid into the public treasury, which said decree was afterwards reversed by the court of appeals.

A sum of money to be paid to him.

C H A P. XCVI.

An ACT concerning Robert Pollard.

[PASSED, December 28, 1792.]

SECTION I. **W**HEREAS it has been represented to the General Assembly, that by the special request of Brigadier-General Muhlenberg, of the troops engaged in the siege of York, Robert Pollard, then resident in the county of Culpeper, undertook the purchase of spirituous liquor for the use of the said troops; that having procured the quantity

Preamble.

of two hundred and eighty gallons of whiskey, he employed a certain William Rowe to waggon it to York, who stored the same in the county of Hanover, where it was seized by William Dandridge of said county, acting at that time in the office of a commissary for the troops at York, who caused the said whiskey to be conveyed to that place, where it was appropriated to the use of the troops of this state, under the command of the late General Nelson.

A certificate to be issued to Robert Pollard.

SECT. II. *BE it therefore enacted*, That the auditor of public accounts shall, and he is hereby authorized and directed, on proper application to him made, to issue to the said Robert Pollard, a certificate for the value of the said whiskey, estimating the same per gallon at the rate heretofore affixed and allowed by law.

Commencement of this act.

SECT. III. THIS act shall commence and be in force from the passing thereof.

C H A P. XCVII.

An ACT concerning John Fleming and others.

[PASSED, November 22, 1792.]

Certificates to be issued to John Fleming,

Benjamin Temple, and Moses Tandy.

BE it enacted by the General Assembly, That the auditor of public accounts shall, and he is hereby directed, on proper application to him made, to issue to John Fleming, a certificate or certificates for the pay and depreciation due to him for his services in the navy of this commonwealth during the late war, with warrants for the interest due thereon. He shall in like manner issue to Benjamin Temple a certificate for the value of eight hundred and fifty pounds weight of beef, according to the rate heretofore established and allowed by law. He shall in like manner issue to Moses Tandy, for services by him performed in the commercial department during the late war, a warrant for the sum of eleven pounds, payable out of the aggregate fund.

C H A P. XCVIII.

An ACT for continuing to John Hoomes and Others, the exclusive privilege of conveying Persons in Stage Carriages to and from certain Places, for a limited Time.

[PASSED, October 31, 1792.]

Privilege granted to Hoomes, Townes and Woolfolk continued.

Privilege granted to Pennock, transferred to Townes and Woolfolk.

SECTION I. **B**E it enacted by the General Assembly, That the exclusive privilege granted by two acts of assembly to John Hoomes, Richard Townes, and John Woolfolk, of conveying persons in stage carriages between certain places, for a limited time, which will shortly expire, shall continue and be extended, from the expiration thereof, for and during the term of three years thence next following; any law to the contrary, notwithstanding.

SECT. II. *AND be it further enacted*, That the privilege granted by an act of assembly to William Pennock, of conveying persons in stage carriages between certain places, for a limited time, shall be, and the same is hereby transferred to the said Richard Townes and John Woolfolk, which said privilege shall, from and after the expiration thereof, continue and be in force for and during the term of three years thence next following.

C H A P. XCIX.

An ACT concerning Thomas Newton, junior.

[PASSED November 17, 1792.]

Preamble.

SECTION I. **W**HEREAS a lot of land the property of Thomas Newton, junior, situate and being in the city of Richmond, and distinguished in the plan thereof by the number, "Four hundred and six," was taken by the directors of the public buildings for the use of the commonwealth. *AND WHEREAS* the said lot of land by inquest taken on the seventeenth day of August, one thousand seven hundred and eighty-four, was valued to the sum of one hundred and fifty-four pounds:

Money to be paid to Thomas Newton; Out of the contingent fund.

SECT. II. *BE it therefore enacted by the General Assembly*, That the auditor of public accounts, on application to him made, shall issue a warrant or warrants to the said Thomas Newton, junior, for the amount of the lot aforesaid, conformably to the valuation aforesaid; and also in like manner issue a warrant or warrants for the interest accruing thereon, after the rate of five per centum per year, from the period of such valuation. The said warrants shall be payable out of the contingent fund, and the treasurer is hereby directed to pay the same.

C H A P. C.

An ACT for suspending certain Executions.

[PASSED, October 12, 1792.]

Preamble.

SECTION I. **W**HEREAS it hath been represented to the present General Assembly, that a certain William Overton Winston, and a certain William Anderson, were commissioned sheriffs of the county of Hanover, for the years one thousand seven hundred and eighty-seven, one thousand seven hundred and eighty-eight, one thousand seven hundred and eighty-nine, and one thousand seven hundred and ninety, and accordingly qualified thereto, in which characters they appointed Richard Littlepage as one of their deputy sheriffs for the said years, who accordingly qualified and entered into bonds with Mr. Robert Page and Mr. John White, his securities, conditioned for the faithful discharge of the duties of his office: And whereas it hath been also represented, that from the default of the said Richard Littlepage, in failing to account for the public taxes due for the said years, judgments have been obtained on behalf of the commonwealth against the said high sheriffs, for the sum of five thousand six hundred and ninety-three pounds two shillings and eight pence, upon which judgment executions have been sued out and levied; in consequence whereof, like judgments have been obtained by the said William Overton Winston and William Anderson, against the said Richard Littlepage, and the said Robert Page and John White, as his securities, and executions sued out thereon, and the whole of their estates have been taken and made subject thereto. And whereas it hath been further represented, that the said Richard Littlepage hath for the indemnity of his said securities, delivered into their hands certain lands, and bonds, of value adequate to the discharge of the said judgments due to the public; and application hath been made to this assembly for a suspension of the commonwealth's executions against the said high sheriffs, until the said Robert Page and John White can make the necessary sale and collection of the said lands and bonds, and pay the amount thereof into the public treasury, which is adjudged reasonable:

Executions on behalf of the Commonwealth against the estates of William Overton,

SECT. II. *BE it therefore enacted*, That the several executions which have been sued out against the estates of the said William Overton Winston and William Anderson, and the estates of the said Richard Littlepage, Robert Page, and John White, shall be, and the same are hereby suspended until the first day of December, one thousand seven hundred and ninety-three. *Provided*, That the said William Overton Winston, and Cecilia Anderson, administratrix of the said William

Anderfon, shall give bond with approved security to the sheriff of the county of Hanover, for the forthcoming of their property by him taken in execution at the period above-mentioned, to be recovered on breach of the condition, for the use of the commonwealth, by motion upon ten days previous notice being given; and that the said Richard Littlepage, Robert Page, and John White, give bond with good and sufficient security, to the said William Overton Winston, and Cecilia Anderson, for the forthcoming of their property, now subject to the execution of the said William Overton Winston and Cecilia Anderson, at the above period; to be recovered on breach of the condition for their use, upon motion, ten days previous notice being given.

*William Anderson,
Richard Littlepage,
Robert Page, and John
White to be suspended.*

SECT. III. THIS act shall commence and be in force from and after the passing thereof.

*Commencement of the
act.*

C H A P. CI.

An ACT for Refunding the Damages on Two Judgments obtained against Thomas Claiborne and William Griffin.

[PASSED, November 10, 1792.]

SECTION I. **W**HEREAS it is represented that Thomas Claiborne, sheriff of the county of Brunswick, in the year one thousand seven hundred and eighty-nine, paid into the public treasury the sum of one hundred and seventeen pounds ten shillings, being the amount of the damages on a judgment obtained by the commonwealth for the balance of the taxes due from him in the year aforesaid, which damages were paid to the said Thomas Claiborne, by some of the securities for one of his deputy sheriffs; AND WHEREAS application hath been made to this Assembly, to refund the said sum of one hundred and seventeen pounds ten shillings, which it is judged reasonable and expedient to do:

Preamble.

SECT. II. *BE it therefore enacted*, That the auditor of public accounts shall issue to the said Thomas Claiborne, a warrant or warrants for the said sum of one hundred and seventeen pounds ten shillings, to be paid out of the aggregate fund, to enable the said Thomas Claiborne to reimburse Theophilus Harrison, one of his deputy sheriffs, as well as such of the securities of one other of his said deputy sheriffs, as paid the same, in such proportions as he may think just and right.

*A sum of money to be
paid to Thomas Clai-
borne, to reimburse the
damages paid by one
of his deputies and the
securities of another.*

SECT. III. *AND be it further enacted*, That the auditor of public accounts shall issue to William Griffin, of the county of King and Queen, a warrant on the treasurer for the sum of fifteen pounds twelve shillings and two-pence half-penny, to be paid out of the aggregate fund, being the amount of the damages on a judgment obtained by the commonwealth against the said William Griffin for the certificate tax, and by him paid into the treasury.

*A sum of money to be
paid to William Grif-
fin.*

SECT. IV. THIS act shall commence and be in force from the passing thereof.

*Commencement of this
act.*

C H A P. CII.

An ACT for the Relief of Edward Booker.

[PASSED, October 25, 1793.]

SECTION I. **W**HEREAS it hath been represented to the present General Assembly, that a certain Edward Booker, of the county of Amelia, became bound as a security for one Millington Roach, as a deputy sheriff under Christopher Hudson, late high sheriff of the said county, and from the default of the said Roach in failing to pay and account with the public for the taxes put into his hands for collection, the said Booker, with John C. Cobbs and William Winston, his securities, are subject to the payment of such deficiency, and in consequence thereof a judgment has been actually obtained against the said Edward Booker, and an execution sued out and levied on his estate. And whereas it hath been also represented that if the commonwealth's execution is immediately carried into effect, and the property of the said Edward Booker sold for ready money, it will be productive of ruinous consequences to him; and application having been made to this Assembly on behalf of the said Edward Booker for such sale to be made on a reasonable credit, which is adjudged reasonable:

Preamble.

SECT. II. *BE it therefore enacted*, That the sheriff of the said county of Amelia shall be, and he is hereby authorized and required, to cause the property of the said Edward Booker by him taken upon the commonwealth's execution, as aforesaid, to be sold, on or before the fifteenth day of January, one thousand seven hundred and ninety-three, on a credit of twelve months, and to take bonds of the purchaser or purchasers accordingly, with such security as shall be approved of by William Giles and John Royall, gentlemen, of the said county, which bonds shall be taken payable to the auditor and his successors, for the use of the commonwealth, and proceeded on when due, in the same manner as is directed by law in the case of twelve months replevin bonds.

*Edward Booker's pro-
perty under execution,
on behalf of the com-
monwealth, to be sold
on twelve months cre-
dit.*

SECT. III. *PROVIDED nevertheless, and it is hereby declared to be the true intent and meaning of this act*, That nothing herein contained shall be construed to release the said John C. Cobbs and William Winston, as the securities of the said Edward Booker, until the whole of the said debt with the interest and costs which have accrued thereon, shall be fully satisfied and paid into the public treasury.

*His securities not to be
released.*

SECT. IV. THIS act shall commence and be in force from and after the passing thereof.

*Commencement of this
act.*

C H A P. CIII.

An ACT for paying the Officers of the General Assembly for their Services during the present Session.

[PASSED, December 28, 1792.]

SECTION I. **B**E it enabled by the General Assembly, That the following allowances shall be made to the officers of the General Assembly for their services during the present session: To the Chaplain six pounds per week; to the clerk of the house of delegates, thirty-five pounds per week; to the clerk of the senate, seventeen pounds ten shillings per week; to the clerk of the committees of privileges and elections, and propositions and grievances, ten pounds per week; to the clerk of the committee of religion and the committee of claims, ten pounds per week; to the clerk of the committee for courts of justices, eight pounds per week; to the serjeant at arms to the house of delegates, eight pounds ten shillings per week; to the serjeant at arms of the senate, eight pounds ten shillings per week; to each of the door-keepers of the senate, five pounds per week; to each of the door-keepers of the house of delegates, five pounds per week; to Thomas Nicolson, for printing the journals of the senate, fifty-six pounds; and to the person who hath cleaned the capitol, the sum of ten pounds. AND WHEREAS the revision of the laws by the present session of the General Assembly has occasioned an extraordinary expense to the clerk of the house of delegates, he having been compelled to employ seven assistant clerks, and it will be necessary for him to devote much of his time and attention during the ensuing year, to the preparing of the Code for publication, and superintending of the press: *Be it therefore enacted*, that on account of the said extraordinary expense and service, a further allowance of two hundred pounds be made to the clerk of the house of delegates.

*Allowances to the
officers of the General
Assembly.*

SECT. II. THIS act shall commence and be in force from and after the passing thereof.

*Commencement of this
act.*

C H A P. CIV.

An ACT to empower Holt Richefon to collect and distrain for certain Taxes in the County of King William.

[PASSED, December 17, 1792.]

Holt Richefon empowered to collect the taxes due in King William for 1787.

SECTION I. **B**E it enacted by the General Assembly, That Holt Richefon, in his proper person, or by his deputy, upon giving bond with good security, to be approved of by the court of the county of King William, to the Governor of this commonwealth, conditioned for the faithful collecting, accounting, and paying all arrears of taxes due to this commonwealth in the county of King William, for the year one thousand seven hundred and eighty-seven, shall be, and he is hereby empowered to collect and distrain for all arrears of taxes due to this commonwealth in the county of King William for the year one thousand seven hundred and eighty-seven; and shall be allowed until the last day of October, one thousand seven hundred and ninety-three, to complete the collection of the said taxes, and pay the same into the public treasury.

Commencement of this act.

SECT. II. THIS act shall commence and be in force from and after the first day of January next.

IN THE HOUSE OF DELEGATES,

THURSDAY, the 11th of October, 1792.

THE General Assembly of Virginia, considering it as one among the important privileges of the people, that the doors of the Senate of the United States should be open, when they are exercising their judicial or legislative functions.

RESOLVED *unanimously*, That the Senators of this commonwealth in the Senate of the United States, use their utmost endeavours to procure the admission of the citizens of the United States to hear the debates of their house, whenever they are sitting in their legislative capacity.

RESOLVED *unanimously*, That the Senators of this commonwealth in the Senate of the United States, use their utmost endeavours to procure the admission of the citizens of the United States, whenever the Senate shall be sitting in its judicial capacity.

October the 13th, 1792—Agreed to by the Senate.

TUESDAY, the 16th of October, 1792.

RESOLVED, That the Executive be authorized to direct such temporary defensive operations for the protection of the frontiers, as will secure the citizens thereof from the hostile invasions of the Indian enemy; and that the Governor be requested to communicate with the President of the United States, for the purpose of establishing adequate and permanent arrangements for their security and defence.

IN order to carry this object into full and complete effect, *Resolved*, That the Executive be authorized to allow the same pay to the troops that has been usually allowed by this state, and to make due application to the war department of the United States for the reimbursement of all such expenses as may be incurred by this state, for the purpose aforesaid.

October the 20th, 1792—Agreed to by the Senate.

SATURDAY, the 20th of October, 1792.

WHEREAS the commissioners appointed to superintend the clearing and improving of the navigation of that part of the river Roanoke, which lies within this commonwealth, and of its branches Dan and Staunton rivers, have informed this house that they have nearly completed the said work, and that the inhabitants of the counties of this state, adjacent to the said river and its branches, are willing to aid in clearing the Great-Falls near Halifax in the state of North-Carolina:

RESOLVED *therefore*, That the legislature of the state of North-Carolina, be informed of the progress made in improving the navigation of the river Roanoke within this state, and of Dan and Staunton rivers, and of the desire of many of the inhabitants of this commonwealth, to aid in clearing the Great-Falls of the said river, near the town of Halifax, in the state of North-Carolina.

October the 24th, 1792—Agreed to by the Senate.

TUESDAY, the 18th of December, 1792.

THE House, according to the order of day, resolved itself into a committee of the whole House on the state of the commonwealth, to whom was committed the report and resolutions respecting the suit commenced by the Indiana Company in the supreme court of the United States against this commonwealth, and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Wise reported, that the committee had, according to order, had the said report and resolutions under their consideration, and had made no amendment thereto; and he read the said resolutions in his place, and afterwards delivered them in at the clerk's table, where the same were again twice read, and agreed to by the House, as followeth:

YOUR committee find on examining the records of the General Assembly, the following resolutions passed by the House of Delegates on the ninth day of June, one thousand seven hundred and seventy-nine, and agreed to by the Senate on the twelfth day of the same month.

“RESOLVED, That the commonwealth of Virginia hath the exclusive right of pre-emption from the Indians, of all lands within the limits of its own chartered territory, as declared by the act and constitution of government in the year one thousand seven hundred and seventy-six; that no person or persons whatsoever, have or ever had a right to purchase lands within the same, from any Indian nation, except only persons duly authorized to make such purchases on the public account, formerly for the use and benefit of the colony, and lately of the commonwealth, and that such exclusive right of pre-emption will, and ought to be maintained by this commonwealth to the utmost of its power.

“RESOLVED, That every purchase of lands heretofore made by the King of Great-Britain from any Indian nation or nations within the before mentioned territory, doth and ought to enure forever to and for the use and benefit of this commonwealth, and to and for no other use or purpose whatsoever.

“RESOLVED, *therefore*, That the deed from the Six United Nations of Indians, bearing date the third day of November, in the year one thousand seven hundred and sixty-eight, for certain lands between the Alleghany mountains and the river Ohio, above the mouth of the Little Kanawha creek, to and for the use and benefit of a certain William Trent, gentleman, in his own right, and as attorney for sundry persons in the said deed named, as well as all other deeds which have been or shall be made, by any Indian or Indians, or by any Indian nation or nations, for lands within the limits of the charter and territory of Virginia as aforesaid, to or for the use or benefit of any private person or persons, shall be, and the same are hereby declared utterly void, and of no effect.

Telle,

E. RANDOLPH, C. H. D.

“ June 12th, 1779—Agreed to by the Senate,

“ JOHN BECKLEY, C. S.”

FROM the foregoing resolutions it appears, that the claim of the Indiana Company, has been already decided on by the legislature of this commonwealth: Your committee are therefore of opinion, that such decision having been made previous to the adoption of the present constitution, and under the former instrument of confederation (which expressly guaranteed perfect and unimpaired sovereignty as to all matters of internal government to all the states leagued under it) cannot be again called in question, before any other tribunal than the General Assembly of this commonwealth,

without a dangerous and unconstitutional assumption of power, which, if exercised, would give birth to a series of pernicious and disgraceful consequences, the extent and duration of which, it is hardly possible to measure or calculate :

RESOLVED therefore, That the jurisdiction of the supreme court of the United States, does not and cannot extend to this case, it having been already decided on before a tribunal fully competent to its decision.

RESOLVED, That the state cannot be made a defendant in the said court, at the suit of any individual or individuals.

RESOLVED, That the Executive be requested, to pursue such measures in this case, as may to them seem most conducive to the interest, honor and dignity of this commonwealth.

December the 20th, 1792—Agreed to by the Senate.

TUESDAY, the 18th of December, 1792.

RESOLVED, That the Executive ought to continue such measures (on the most economical plan) in pursuance of the resolution of the 16th of October last, as may be effectual for the defence and security of the frontiers.

RESOLVED, That the Executive should from time to time communicate to the general government the sums advanced for the defence of the frontiers, and require that the same be reimbursed.

December the 18th, 1792—Agreed to by the Senate.

FRIDAY, the 28th, 1792.

WHEREAS by the act for appropriating the public revenue, the treasurer has been directed to exchange the certificates in the sinking fund for any certificates bearing an interest of six per centum, which have been issued since the first day of January, 1790, and it appears that certain arrears of interest are due on the said certificates.

RESOLVED therefore, That the auditor be directed to endorse on all the certificates belonging to the sinking fund, which may be given in exchange for others, that the interest on the said certificates has been paid to the first day of January, 1793.

December the 28th, 1792—Agreed to by the Senate.

T A B L E

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